

proved new drug application, or is identical, similar, or related to such a drug product shall submit an IND if the study is one of the following:

(1) A single-dose study in normal subjects or patients where the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(2) A multiple-dose study in patients where the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(3) A multiple-dose study in normal subjects whether or not the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(c) The provisions of § 312.1 of this chapter are applicable to any bioavailability study conducted under a "Notice of Claimed Investigational Exemption for a New Drug."

(d) The consent of all human subjects (or their representatives) who participate in a bioavailability study (regardless of whether the study is conducted under a "Notice of Claimed Investiga-

tional Exemption for a New Drug") shall be obtained in writing under § 310.102 of this chapter.

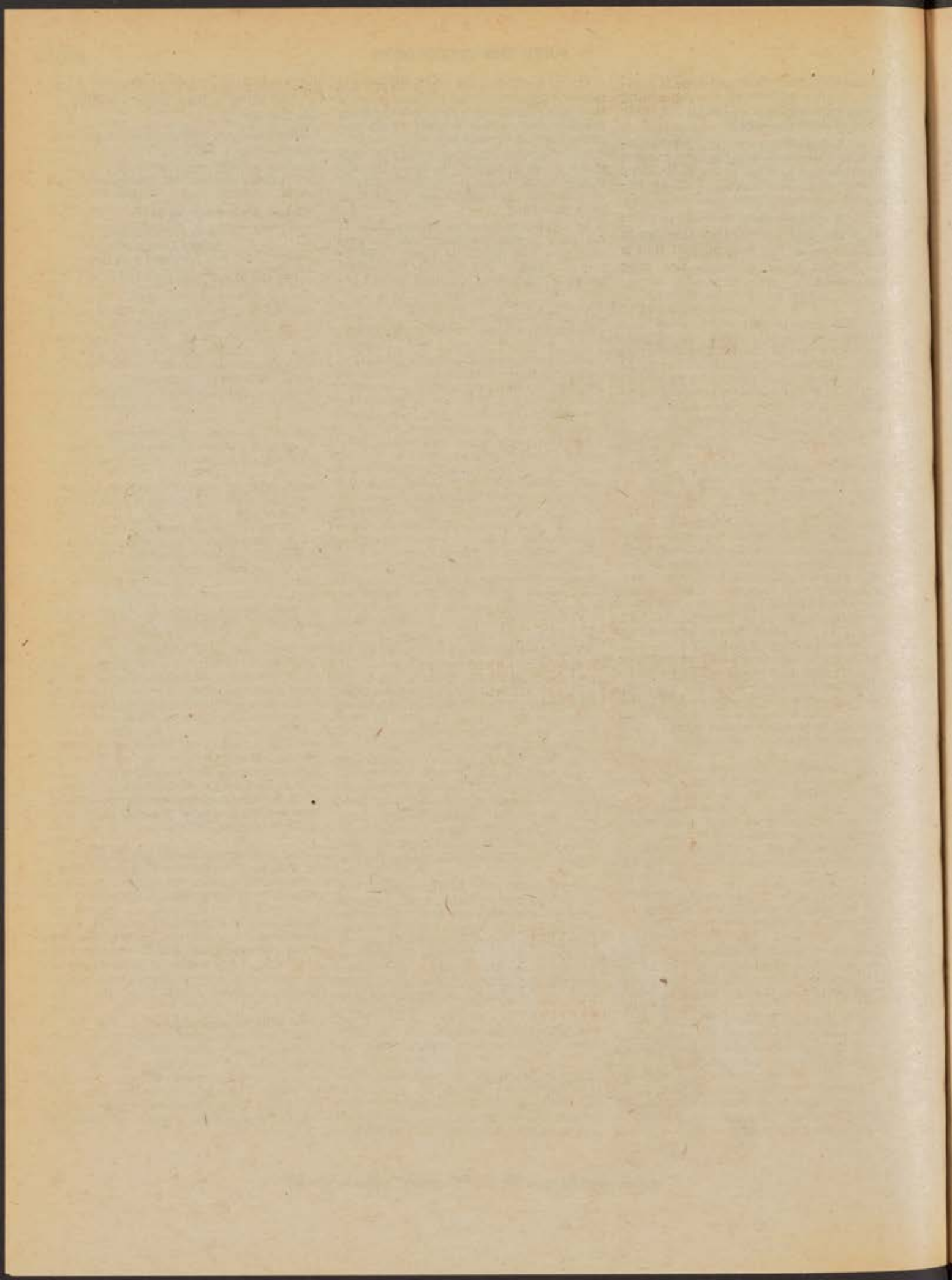
Effective date: This regulation shall be effective July 7, 1977.

(Secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041-1042 as amended, 1049-1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371(a)))

Dated: December 30, 1976.

SHERWIN GARDNER,
Acting Commissioner
of Food and Drugs.

[FR Doc.77-569 Filed 1-6-77; 8:45 am]



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FRIDAY, JANUARY 7, 1977

PART IV



DEPARTMENT OF LABOR

Office of the Secretary



MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

Miscellaneous Amendments

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Migrant and Other Seasonally Employed Farmworkers Programs

MISCELLANEOUS AMENDMENTS

On Tuesday, October 19, 1976, the Department of Labor published in the FEDERAL REGISTER (41 FR 46125) proposed revisions to the regulations under the Comprehensive Employment and Training Act at 29 CFR Parts 94 and 97. The Department invited interested persons to submit comments on the proposed regulations until November 17, 1976.

Several comments were received. The Department studied these comments carefully, and established an evaluation procedure to allow consideration of each comment on its own merits and in relation to other comments received on the same or similar subjects.

This evaluation procedure has resulted in a decision to amend the current regulations for section 303 in certain respects.

The following significant changes have been made in response to the comments received on the October 19, 1976, proposed rulemaking:

1. In § 97.203 *Definitions*, in "Farmwork," 0761 of the Standard Industrialization Classification (SIC) Code definitions is removed as an exclusion so as not to prohibit provision of services to individuals who work for crew leaders. Provision of services to crew leaders, as such, is excluded under the definition of "Seasonal Farmworker."

2. In § 97.215 *Review of Funding Requests*, in paragraphs (a) (2) (P) (1) and (a) (2) (P) (2), language is added to make experience criteria for 303 grantees and for other applicants consistent.

3. In § 97.255 a new paragraph (h) is added which makes clear that section 303 sponsors are permitted to use grant funds to join associations which serve the professional needs of section 303 program operators, and foster the exchange of technical employment and training information among such professionals. It also makes clear that Federal funds shall not be used for lobbying or political purposes. In response to comments received on the proposed amendment published August 24, 1976, the requirement that sponsors receive written authorization from the Secretary before joining an approved association was deleted. Since an association must be approved by the Secretary and announced, it was felt that to require additional written approval was duplication of effort.

4. In § 97.262 *Basic personnel standards for grantees and subgrantees*, a new paragraph (i) entitled "Staff complaint procedures" is added which requires

sponsors to establish as part of their written personnel policies a procedure for resolving staff personnel complaints.

In response to comments received, the subparagraph allowing staff members who have exhausted their employer's administrative procedure to initiate procedures under § 97.291(b) has been deleted.

5. In § 97.232 *Eligibility for participation in Section 303 programs*, paragraphs (a) (1) and (a) (2) have been revised to clarify that farmworkers who supplement their income by working in food processing should not be disqualified. The intent of this section has never been to qualify workers exclusively employed in food processing industries.

6. In § 97.271 *Procurement Standards*, paragraph (d) is amended to eliminate dollar limitations and simply refer to definition of nonexpendable property as spelled out in the Property Handbook for MA Contractors.

7. In addition, several editorial, clarifying, and interpretative changes have been made. The more significant changes are as follows:

In § 97.203 *Definitions*, a definition for "Supplemental Funds" is added.

In § 97.204 *Allocation of funds*, language is revised to clarify that the hold harmless amount does not include supplemental funds.

In § 97.213 *Content and Description of Funding Request*, in paragraph (b) (3) (i) (C), a new item (10) is added for description of monitoring and self-evaluation system.

In § 97.233 *Types of program activities available*, language is added to paragraph (c) (2) (ii) to require prior approval of the Secretary for use of designs other than the 50 percent method for OJT.

Section 97.266 *Termination of a grant*, has been revised by deleting paragraph (b) of the proposed regulation, and putting it in a new section 97.267, *Suspension and debarment*. This new section provides that the Secretary may suspend a grantee from being considered for section 303 funds when there is adequate evidence of illegal use of program funds and provides that DOL Procurement Regulations will be followed if suspension or debarment is proposed.

Several comments were received on § 97.213(b) (2) (iii) and § 97.251(a) (1) and (2), the accounting certification process. The Department will continue to evaluate these comments and may propose changes in the accounting certification process at a later date.

A short explanatory statement was provided in the proposal of October 19, 1976, to describe the substantive amendments to the July 9, 1975 regulations. A description of the amendments, which are adopted herein, for the Fiscal Year 1977 regulations are repeated for the reader's convenience.

In § 97.203 *Definitions*, the following changes are made:

The definition of "Allocation" has been changed to clarify that it refers to the amount of funds calculated to be used as planning estimates for section 303 programs.

The definition of "manpower services" has been changed to eliminate the services of outreach, intake and assessment, and transportation, as specified in § 97.233.

The definition of "supportive services" has been changed to include transportation.

Section 97.212 has been revised to require the submission of the revised Pre-application for Federal Assistance Form (SF 424).

Section 97.213(b) (3) (i) (C) (8) has been revised to give examples of the types of items which may be submitted as evidence of past experience.

Paragraph (b) (4) contains three new assurances (xiv), (xv), and (xvi).

Section 97.214 *Submission of Funding Request*, (c) (1), language has been changed to clarify that copies of the Funding Request shall be submitted to appropriate State and/or area clearinghouses. Language has been added to require applicants to indicate in their Funding Request that the procedures of § 97.214 have been followed:

In paragraph (a) (2) (E), § 97.215 *Review of Funding Requests*, language has been loosened to provide for the higher rating to be awarded to applicants which would operate programs incorporating services at less than or no cost to section 303.

A new paragraph, § 97.215(b) (4) has been added which allows the Secretary to not select an applicant if there is evidence of substantial mismanagement of government funds.

In § 97.216(a) (2) time limitation is added to clarify that the Secretary will notify clearinghouses that submit comments on an application of the selection within seven working days of selection.

In paragraph (b) language has been clarified to allow the Secretary to invite one or more organizations to submit a proposal for a State or area.

In paragraph (d) of § 97.217 *Negotiation of final grant*, a new provision has been added to allow the Secretary to negotiate with any organization in the event that negotiations did not result in any acceptable negotiated grant for a section 303 program in a State or area.

Sections 97.220 and 97.221 *Modifications of Grant Agreement and Modification of Comprehensive Manpower Plan* have been combined as § 97.220 and completely revised. The following is a summary of the changes: (1) Modifications of grant agreement and major plan modifications are combined.

(2) A narrative modification is included in the overall definition of major modification.

(3) Language is added restricting modifications being initiated solely to adjust planned performance to meet actual performance.

(4) Language is added to clarify for which items prior approval of the Secretary is required.

(5) Paragraph (b) (3) requires that the revised signature sheet shall be used on all modifications requiring prior approval by the Secretary, which would

have an additional block to show the type of modification.

(6) In paragraph (c) minor plan and narrative modifications are combined.

In paragraph (a) (c) of § 97.232 *Eligibility for participation in section 303 programs*, the language regarding participation of aliens has been revised.

A new paragraph (e) has been added which prohibits sponsors from providing services to persons violating the terms of the Farm Labor Contractor Registration Act of 1963, as amended.

In § 97.233 *Types of program activities available* paragraph (c) (iii) has been clarified to indicate that allowances and benefits shall be provided as specified in § 97.256.

Time limitation is removed from § 97.233 because it is covered under § 97.256.

In § 97.233(c) (2) (ii), language has been added to indicate that use of a formula which incorporates the trainee's wage as a factor and fixed unit cost contracting are acceptable methods of reimbursement to private-for-profit employers for extraordinary on-the-job training costs, as long as the reimbursement does not exceed 50 percent of the trainee's entry level wage.

The paragraph in § 97.233 prohibiting direct subsidization of wages for participants placed with private-for-profit employers has been separated and renumbered as (iii).

Section 97.233(e) has been renumbered as (c) (3) and has been revised to further clarify appropriate work experience activities. In addition, a new paragraph has been added regarding periodic review of each work experience participant.

A new § 97.233(c) (3) (viii) (A) (3) has been added to include for participants in Federally funded or assisted construction projects, the prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when such rates are required by the Federal statute under which the assistance was provided.

In § 97.233(c) (4) the services of outreach and intake have been labeled as services to applicants, and paragraphs (i), (ii), (iii), and (iv) have been renumbered. The services of intake, orientation, counseling, and child care have been defined and transportation has been moved from manpower services to supportive services.

In § 97.233(c) (4) (iii) transportation has been moved from manpower services to supportive services.

In § 97.233(c) (4) (iii) (C) (9), Adult Basic Education has been removed from supportive services and Referral to non-303 funded services has been added.

In § 97.233(c) (4) (iii) (E) and § 97.233(c) (5) (iii), the words "as the only activity in which the participant is enrolled" have been deleted.

In § 97.236 *Cooperative relationships between sponsor and other manpower agencies*, in paragraph (a), the examples of Job Corps and the Employment Service has been inserted. Also, grantees are required to maintain documentation on linkages established.

In § 97.236(b) the requirement to establish cooperative relationships with SESA's is added.

§ 97.237 *Performance standards*. In the proposed regulations published October 19, 1976, this section was reserved. A revised set of performance measurements is being reviewed by the Department for future implementation. Until that is finalized, the section on performance standards remains unchanged from the July 9, 1975, regulations.

In § 97.252 *Audit* two provisions have been added which are different from those in § 98.6(e) (2). Audits shall be conducted every year for section 303 grantees for grants of \$25,000 or more.

In § 97.253 *Reporting Requirements*, paragraph (b) a new reporting requirement has been added. Sponsors are required to submit a current list of all CETA participants receiving wages to the SESA's upon request.

In § 97.255 *Allowable Federal Costs*, the language has been revised in paragraph (a) clarifying the definition of direct and indirect costs.

In § 97.255(d), language has been added to require grantees to assure that all subgrantees and contractors plan, control and report expenditures against the six cost categories defined in § 97.255 (e) and plan for unemployment insurance costs to be incurred during the grant year.

In § 97.255(e) (2) the language has been changed to allow grantees to charge the cost of insurance policy premiums incurred to provide comparable insurance to workmen's compensation for classroom training or services to participants' enrollees, to the cost categories of Training or Services.

In § 97.255(e) (4) language has been added to clarify that training costs consisting of goods and services which directly affect participants should be for instruction of participants in either a work environment or classroom.

In § 97.255(e) (6) language has been added to define administration costs as all indirect and direct costs identified with the management of the grant including subgrantee and contractors, and supervision.

In § 97.255(e) (7), language has been added to allow grantees to charge single unit charges to the dominant cost category if the cumulative amount of common charges such as doctor's bills or tuition fees will not exceed \$25,000 during the grant year, and clarify that for such charges as tuition fees in excess of the \$25,000 for which details cannot be obtained, benefits can be charged to cost categories based on estimates.

In § 97.255(f) (1), Wages, language has been added to specify that cost of living increases are to be considered wages.

In § 97.255(f) (2), Fringe benefits, language has been added to prohibit the charging of cost of living increases to fringe benefits and to require grantees to charge unemployment insurance costs as they are incurred.

In § 97.255(f) (4) Training, the language has been revised to allow grantees to charge the costs of classroom space

and utilities, instructor's equipment and clerical support to the cost category of Training.

In § 97.255(f) (5) (v), Services, language has been added to allow grantees to charge the travel, equipment, space and utilities costs identified with such positions as job developers, counselors, and outreach workers. Additionally, transportation of participants will be an allowable cost under Services.

In § 97.255(g) Travel Costs, language is revised and clarified so that prior approval of the Secretary is not required for section 303 staff and board members if travel is within the section 303 target area or for a Department sponsored conference or meeting.

Section 97.256 *Allowances, wages, general benefits, and working conditions for program participants* has been divided into separate sections so that § 97.256 is titled *Allowances*; § 97.257 is titled *Wages*; § 97.258 is titled *Minimum duration of training; reasonable expectation of employment*; and § 97.259 is titled *General benefits and working conditions for program participants*. Each of these sections has been written out in order to eliminate the need to reference corresponding paragraphs in sections 95 and 98. As a result, § 97.257-97.269 have been renumbered.

In paragraph (b) of § 97.256 *Training allowances*, clarification has been made that allowances shall be paid for classroom training except in cases where waivers have been granted; and allowances may be paid only for participation in activities listed under manpower services, § 97.233(c) (4) (iii) (B), or in other activities.

In § 97.258 *Minimum duration of training; reasonable expectation of employment*, language has been added so that an individual may not be referred for training which requires less than two weeks pre-employment training unless there are immediate employment opportunities available in that occupation.

In § 97.269, *Program income and limitations on program expenditures*, language was added to paragraph (a) (1) to require grantees to return interest earned from program funds within 30 days of the end of each grant quarter and paragraph (a) (3) to require that non-interest program income be expended according to the appropriate title of the Act.

In § 97.270 *Procurement standards*, a new paragraph (c) has been added to make applicable to non-governmental grantees the definitions of subgrant and contract spelled out in § 98.20.

In paragraph (a) of § 97.292 *Procedures for complaints arising from the selection of potential grantees*, a sentence is added to clarify that this does not apply to subjects of negotiation.

Additionally, editorial, stylistic and technical changes are made in this revision.

Accordingly, 29 CFR Parts 94 and 97 are revised, effective February 7, 1977, for the operation of Fiscal Year 1977 grants, to read as follows:

Section 94.3 of Part 94 is revised by deleting the present Table of Contents for Part 97, Subpart C, and substituting therefor the new Table of Contents for Part 97, Subpart C, so that the revised section reads as follows:

§ 94.3 Consolidated Table of Contents for Parts 94-99.

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART C—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

GENERAL

- Sec.
97.201 Scope and purpose of Title III, Section 303 Programs.
97.202 Scope and purpose of this subpart.
97.203 Definitions.
97.204 Allocation of funds.
97.205 Eligibility for allocable funds.

GRANT PLANNING AND APPLICATION PROCEDURES

- 97.210 Grant planning and application procedures in general.
97.211 Announcement of State Planning estimates and invitation to submit Funding Requests.
97.212 Preapplication for Federal Assistance. Content and description of Funding Requests.
97.213 Submission of Funding Requests.
97.214 Review of Funding Requests.
97.215 Notification of selection.
97.216 Negotiation of final grant.
97.217 Grant award.
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97.219 Modifications.

PROGRAM OPERATIONS

- 97.220 General.
97.221 Basic responsibilities of grantees under Section 303.
97.222 Eligibility for participation in Section 303 programs.
97.223 Type of program activities available.
97.224 Complaint procedure.
97.225 Training for lower wage industries; relocation of industries.
97.226 Cooperative relationships between grantee and other manpower agencies.
97.227 Performance Standards.

GRANT ADMINISTRATION

- 97.250 Grant administration in general.
97.251 Private nonprofit organizations; financial management systems.
97.252 Audit.
97.253 Reporting requirements.
97.254 Reallocation of funds.
97.255 Allowable Federal costs.
97.256 Training Allowances.
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97.258 Minimum duration of training; expectation of employment.
97.259 General benefits and working conditions for program participants.
97.260 Allocation of allowable costs among program activities.
97.261 Bond coverage of officials.
97.262 Basic personnel standards for grantees and subgrantees.
97.263 Non-Federal status of participants.
97.264 Grantee contracts and subgrants.
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- Sec.
97.270 Program income and limitations on program expenditures.
97.271 Procurement standards.
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ASSESSMENT AND EVALUATION

- 97.280 Assessment and evaluation.

ADMINISTRATIVE REVIEW

- 97.290 Purpose and policy.
97.291 Procedure for complaints by eligible individuals and program participants.
97.292 Procedure for complaints arising from the selection of potential grantees.

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), secs. 702(a) and 303, unless otherwise noted.

Part 97, Subpart C is revised to read as set forth below:

SUBPART C—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

GENERAL

- 97.201 Scope and purpose of Title III, Section 303 Programs.
97.202 Scope and purpose of this subpart.
97.203 Definitions.
97.204 Allocation of funds.
97.205 Eligibility for allocable funds.

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97.256 Training allowances.
97.257 Wages.
97.258 Minimum duration of training; reasonable expectation of employment.

- Sec.
97.259 General benefits and working conditions for program participants.
97.260 Allocation of allowable costs among program activities.
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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), secs. 702(a) and 303, unless otherwise noted.

Subpart C—Migrant and Seasonally Employed Farmworkers programs

GENERAL

§ 97.201 Scope and purpose of Title III, section 303 Programs.

(a) It is the purpose of Title III section 303, of the Act to provide manpower and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry, which has been substantially affected by recent advances in technology and mechanization. These individuals constitute a substantial portion of the nation's rural manpower problem and substantially affect the entire national economy.

(b) Because of the special nature of the problem faced by migrant and seasonal farmworkers, the programs developed and implemented under this section of the Act shall be administered by the Employment and Training Administration at the national level. Such programs will be flexible in design and shall have these primary objectives:

(1) *Alternatives to agricultural labor.* Provision of services to migrant and other seasonally employed farmworkers and their families who wish to seek alternative job opportunities to seasonal farmwork which will equip them to compete in other labor markets and to secure stable year-round employment providing an income above the poverty level.

(2) *Improved agricultural life style.* Provision of services necessary to improve the well-being of migrants and

other seasonally employed farmworkers and their families who remain in the agricultural labor market and/or to upgrade their skills to enable them to take advantage of job opportunities created by changing agricultural technology.

§ 97.202 Scope and purpose of this subpart.

(a) The regulations promulgated to carry out the Act are set forth in 29 CFR Parts 94-99 as published in the FEDERAL REGISTER on June 25, 1976 (40 FR 26334). As each substantive title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 99 provide a separate part for each basic type of activity, and two parts deal with general matters relating to the Act. This subpart deals with all matters pertaining to the implementation and operation of Migrant and Seasonal Farmworker Programs pursuant to section 303 of the Act. It is designed to contain in itself all the regulatory material under the Act necessary for the operation of section 303 programs except where specific reference is made to other parts of this title. When the provisions of this subpart conflict with the provisions of other regulations under the Act, the provisions of this subpart shall prevail.

(b) Statutory authority for the regulations contained in this Subpart C may be found in sections 303 and 702(a) of the Act, as amended as well as in other substantive provisions of the Act.

§ 97.203 Definitions.

A listing of definitions of terms used in the regulations promulgated to implement the Act is set forth in § 94.4 of this subtitle. Those definitions applicable only to section 303 or having special significance to section 303 are the following:

"Allocation" shall mean the amount of funds calculated in accordance with section 97.204 of this subpart to be used as planning estimates for section 303 programs in each State and distributed in accordance with the requirements of this subpart.

"Appropriate amount" for the purposes of committing Title I and/or II funds for farmworkers shall mean an amount proportional to the significance of the farmworkers in the prime sponsor's population; for example, the amount whose ratio to the total Title I funds available to the prime sponsor is equivalent to the ratio of the number of farmworkers to the total number of low-income workers in the prime sponsor's jurisdiction.

"Eligible Applicant," for purposes of receiving funds allocable pursuant to § 97.204(c) of this title, shall mean:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency designated by such prime sponsor to receive section 303 funds;

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as may be funded under this subpart.

"Emergency assistance" shall mean temporary services on an emergency basis which are not immediately available from non-section 303 sources.

"Establishment" shall mean an economic unit, generally at a single physical location, where business is conducted (For example: Farm, orchard, ranch). For the purposes of the "seasonal farmworker" definition, farm labor contractors and crew leaders are not considered establishments; it is the organizations to which they supply the workers that are the establishments.

"Family" shall mean one person, or more than one person living in a single household who are related to each other by blood, marriage, or adoption. A stepchild or foster child who receives at least 50 percent of his/her support from the stepparent or foster parents shall be counted as a member of the stepparent's or foster parents' family. A member of a household:

(1) Who is 18 or older, and
(2) Who receives less than 50 percent (50%) of his/her maintenance from the family, shall not be considered to be a member of the family. Such an individual shall be considered as a family residing alone or in group quarters.

"Farmwork" shall mean work performed for wages in agricultural production or agricultural services (as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions included in industries 01, 02 (excluding 027), and 07 excluding 074, 0752, and 078).

"Farmworker organization" shall mean a private nonprofit organization directed principally by farmworkers.

"Funding request" shall mean a formal proposal submitted by an applicant which detail the type and extent of services to be provided to farmworkers and their dependents for consideration by the Secretary for funding under section 303.

"Health care" shall include but is not limited to preventive and clinical medical treatment for farmworkers and their dependents.

"Manpower services" shall mean such services as (a) orientation; (b) counseling; (c) job development; (d) referral; (e) job placement; (f) followup.

"Migrant farmworker" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day.

"Nutritional assistance" shall mean services including but not limited to assisting farmworkers and their dependents to obtain food stamps and vouchers, access to other food programs, fair hearings and limited direct cash purchases of food.

"Participant" shall mean an individual who qualifies and receives serv-

ices except for an individual who receives only outreach and intake (including assessment) services. An individual applicant becomes a participant when:

(1) The individual is declared eligible upon intake; and

(2) The individual receives employment, training or services funded under the Act following intake, except for an individual who receives only outreach and intake (including assessment) services.

"Planning estimates" shall mean the preliminary allocations announced for the purpose of providing target funding levels for each State.

"Relocation assistance" shall mean the activities necessary to arrange for a family to move to a new abode for the purpose of receiving services and/or training which will lead to alternative job opportunities to seasonal farmwork. Activities may include but are not limited to: Necessary manpower services; the costs of the actual transfer of goods and property including mileage for the families' travel; emergency assistance; rent subsidies; and other supportive services.

"Residential support" shall mean the provision of temporary housing for families receiving training, supportive services, or post-placement services. The grantee may offer such housing in several ways including but not limited to directly operating a residential facility with all necessary services or through the grantee's subsidizing all or part of the rental and utility costs for an enrolled family.

"Seasonal farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal farmworker" includes both migratory and nonmigratory farmworkers, but does not include supervisors or nonmigratory individuals who are full-time students or farmworkers who are not "seasonal" as defined in the preceding sentence.

"Section 303" shall mean the Migrant and Seasonal Farmworker Programs, section 303, Title III of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203, 87 Stat. 839).

"State" includes the Commonwealth of Puerto Rico.

"Supplemental funds" shall mean any funds allocated in excess of that amount announced as a "planning estimate."

"Supportive Services" shall mean such services as health and medical service, child care, transportation, emergency assistance, relocation assistance, residential support, nutritional services, and legal services, designed to improve the well being of those remaining as seasonal farmworkers as well as such services described in § 94.4(d) of the subtitle.

"Target area" shall mean a geographic area to be served by a section 303 grant. Such an area may be a county, multi-county area, a state, or a multi-state area.

"Target population" shall mean farmworkers and their dependents who meet § 97.232.

§ 97.204 Allocation of funds.

(a) *Available funds.* For the purpose of implementing this subpart and pursuant to section 303 of the Act, the Secretary shall reserve, from funds available for Title III programs, funds to serve migrants and other seasonally employed agricultural workers in an amount equal to not less than 5 percent of the amount allocated pursuant to section 103 (a) (1) of the Act.

(b) *National Account.* (1) No more than twenty percent (20%) of the statutory reserve for section 303 activities will be set aside for the National Account, to be used at the discretion of the Secretary for experimental programs; clearing house activity; labor market information; interstate programs; special needs, including but not limited to projects such as permanent housing; programs to meet the needs of emergency situations and changing agricultural technology; and other programs.

(2) Funds from the National Account may be obligated by the Secretary by means of either contracts or grants to private nonprofit agencies or contracts to private profit making organizations. National Account funds obligated to states and local units of government shall be awarded through grants.

(3) The Secretary shall fund programs from the National Account according to procedures deemed advisable by the Secretary, but all National Account programs shall include performance standards specifically designed for those programs.

(4) The provisions of this Subpart C apply in their entirety to programs funded from the National Account, with the exception of §§ 97.205, (Eligibility for Allocable Funds), 97.211 (Allocations), 97.213-97.215 (Selection of Potential Grantees) and paragraph (b) of § 97.237 (Performance Standards).

(c) *State allocations (allocable funds).* (1) No less than eighty percent (80%) of the funds reserved for section 303 activities shall be allocated for farmworker programs in individual states in an equitable manner using the best data available as determined by the Secretary.

(2) *Hold harmless clause.* No state shall be allocated an amount which is less than 90 percent of the amount of allocable section 303 funds announced as the State planning estimate. The base amount on which the 90 percent is calculated shall not include any supplemental funds which may have been allocated in the prior fiscal year. If during any fiscal year the appropriation for section 303 is less than that appropriated in the previous fiscal year, the Secretary reserves the right to suspend the provisions of paragraphs (c) (1) and (2) of this section.

(3) *Allocation Exceptions.* (i) The Secretary reserves the right not to allocate any funds for use in a State whose allocation is less than \$50,000. The Secretary will announce which state(s) will not be allocated funds on or about July 1 of each fiscal year. If the State allocation

would be an amount less than \$50,000, the Secretary may allocate \$50,000 for programs in that State.

(ii) Currently funded programs which are unsuccessful applicants for grant funds shall be given notice that funding will terminate upon expiration of the current grant and at least ninety-days lead time to phase out their operations, but such notice will not bind the Secretary to obligate additional funds. The notification of non-selection shall be the notice of termination and the requirements of § 97.267 are to be followed.

(4) *Funding cycle.* All projects funded through State allocations shall be funded beginning January 1 of each year in accordance with the following funding cycle:

(i) On or about July 1: Announcement of State planning estimates and the invitation to submit Funding Requests for State(s) or area(s) open for competition as provided in § 97.219.

(ii) August 1: Deadline for submission of Preapplication Forms for Federal Assistance forms (3 p.m., e.d.t.).

(iii) September 1: Deadline for submission of Funding Requests (3 p.m., e.d.t.).

(iv) On or about November 1: Notification of selection as potential grantees.

(v) January 1: Commencement of grant awards.

If the Secretary deems it advisable to alter the funding cycle provided herein a revised funding cycle shall be published in the FEDERAL REGISTER on or about July 1 of any fiscal year.

§ 97.205 Eligibility for allocable funds.

The following organizations and units of government shall be eligible to receive allocable funds available under section 303:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency within such a prime sponsor's geographic boundaries designated by that eligible prime sponsor to receive section 303 funds in its place.

(1) An applicant eligible under paragraph (a) of this section which wishes to apply for consideration for grant funds to operate programs in an area outside the area in which it is eligible to operate under CETA Title I may do so only with the concurrence of the Title I prime sponsor for that area so affected. Such concurrence may be accomplished by means of an agreement that provides for a subgrant from the applicant prime sponsor to the affected Title I prime sponsor or by letter from the affected prime sponsor authorizing the applicant prime sponsor to operate programs in the affected area.

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as are permitted by this subpart.

(c) An organization which wishes to be considered for grant funds to operate programs in more than the State shall submit separate Funding Requests for each state for which it wishes to be considered for funding. An applicant eligible under paragraph (a) of this section which wishes to operate programs in an area outside of its State may do only with the concurrence of the Title I prime sponsor for that area.

GRANT PLANNING AND APPLICATION PROCEDURES

§ 97.210 Grant planning and application procedures in general.

Section 97.210-97.220 provide procedures for obtaining and modifying a grant to operate programs under section 303 of the Act. Specifically, these sections describe the procedures in the grant award process from the announcement of invitation to submit Funding Requests, through the grant application process, to review by the Department and approval of the grant.

§ 97.211 Announcement of State planning estimates and invitation to submit Funding Requests.

(a) *Announcements.* (1) *State planning estimates.* On or about July 1 of each fiscal year the Secretary shall announce State planning estimates of resources available to implement section 303 programs.

(2) *States or areas open for competition under section 303.* On or about July 1 of each fiscal year the Secretary shall announce a list of States and/or areas open for competition under section 303 as provided in § 97.219.

(3) *Invitation to submit funding requests.* On or about July 1 of each fiscal year, the Secretary shall invite applicants as defined in § 97.203 interested in receiving funding under section 303 to submit a Funding Request. The invitation will cover only those areas designated by the Secretary as open for competition.

(4) These announcements shall be made in the FEDERAL REGISTER and through the appropriate Regional Administrator for Employment and Training.

(b) *Intention to apply.* (1) Any eligible applicant intending to apply for funds from a State allocation must submit a Preapplication for Federal Assistance form to the Secretary by August 1, of each fiscal year.

(c) *Opportunity for review and comment.* (1) On or about August 20 of each fiscal year, the Secretary shall publish in the FEDERAL REGISTER a list of all eligible applicants which have submitted preapplications for all or part of each State allocation: (2) Eligible applicants wishing to review and comment on the Funding Request of any eligible applicant within their State as listed in the FEDERAL REGISTER pursuant to paragraph (c) (1) of this section must request a copy of the Funding Request from the eligible applicant so listed.

(3) Eligible applicants submitting a Funding Request to the Secretary to be

considered for all or part of a State's allocable funds must send a copy of the Funding Request to all other eligible applicants within the State which have requested a copy of the Funding Request pursuant to paragraph (c) (2) of this section.

(4) These copies must be submitted to requesting organizations at the same time the Funding Request is submitted to the Secretary. Funding Requests sent by mail to requesting organizations pursuant to paragraph (c) (2) and (3) of this section shall be sent by registered or certified mail with return receipt requested or if a Funding Request is delivered by hand, the recipient eligible applicant shall provide a written receipt bearing the time and date of delivery.

(5) Comments of Funding Requests shall be submitted to the Secretary at the address provided in § 97.214, within 30 days of receipt of the Funding Request, but no later than October 8, of each fiscal year. A copy of all comments must also be sent to the concerned eligible applicant by registered mail at the same time.

§ 97.212 Preapplication for Federal assistance.

(a) An applicant eligible to receive allocable funds available under section 303 shall submit a preapplication to the Secretary. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7, with an attachment identifying the target area by State and Counties.

(b) Preapplication for Federal Assistance form, Part I, shall be submitted to the offices identified in § 97.214 (a) and (b). If an organization does not submit a Preapplication for Federal Assistance form by August 1, its Funding Request shall not be considered.

§ 97.213 Content and description of funding request.

(a) *General.* (1) This section describes the Funding Request forms which applicants shall use to apply for funds under section 303.

(2) Forms and instructions are contained in the Forms Preparation Handbook and its section 303 supplement and are available from the Secretary upon request.

(3) The Funding Request consists of four parts: The application for Federal Assistance; the Eligibility documentation; the Comprehensive Plan for Farmworkers; and the Assurances and Certifications form.

(b) *Funding Request forms.* (1) *Application for Federal Assistance.* This identifies the applicant and the amount of funds requested. It provides information concerning the area to be served and the number of farmworkers expected to benefit from the program. The form provided in Federal Management Circular 74-7, Part I, grant application for nonconstruction programs, shall be used with such other forms, as may be required.

(2) *Eligibility documentation.* The following documents shall be submitted by

an applicant to meet the eligibility requirements for section 303.

(i) A statement indicating the legally constituted authority under which the organization functions;

(ii) An employer identification number from the Internal Revenue Service; and, for private nonprofit applicants, proof of their tax-exempt status;

(iii) A certification by the chief fiscal officer of a public organization or by a CPA for private nonprofit organizations attesting to the adequacy of the applicant's accounting system, if applicable (refer to § 97.251 to determine applicability);

(iv) A copy of the Comprehensive Manpower Plan component which describes CETA Titles I and/or II services to be made available to farmworkers for the fiscal year for which funds are requested (for CETA prime sponsor applicants only) pursuant to § 97.205 (a).

(v) Documentation of concurrences from affected prime sponsor(s), as described in § 97.205 (a) (for CETA prime sponsor applicants only).

(3) *Comprehensive Plan for Farmworkers.* The Comprehensive Plan for Farmworkers is a detailed explanation of how the applicant proposes to use section 303 funds for farmworkers within its target area. Upon incorporation into the grant agreement, the amended Comprehensive Plan for Farmworkers will become the basis for programmatic and fiscal accountability of the section 303 grant. The Comprehensive Plan for Farmworkers consists of the Narrative Description of the Program, the Program Planning Summary, and Budget Information Summary described below:

(i) *Narrative description of program.* The Narrative Description of the Program analyzes the manpower and social problems of the target population within the target area to set priorities and goals, describes proposed program activities and delivery systems to meet these goals, proposes performance standards for all program activities, and projects the results which may be expected from the program. The Narrative Description of the Program requires a detailed justification and description of each program activity, including the following specific items (the Forms Preparation Handbook is a guide for completing these items):

(A) Objectives and needs for assistance:

(1) Policy statement on purpose of program;

(2) Description of economic conditions;

(3) Analysis of labor market and social service situation;

(4) Statement of number of farmworkers and dependents to be served; and

(5) Goals and priorities.

(B) Program design and results expected:

(1) Statement of strategy for accomplishing goals;

(2) Detailed description of each program activity and service, including costs, manner of delivery, specific objectives, and performance standards; and

(3) Enumeration of objectives and performance standards related to goals identified in Part A of the Narrative Description of Program.

(C) *Approach:*

(1) Description of the planning system, participation of and role of the governing board or advisory councils in planning and implementation;

(2) A copy of the by-laws or other official documents showing the structure of pertinent Boards, Area Councils, or Advisory bodies;

(3) Description of the delivery system;

(4) Description of recruitment and eligibility verification methods;

(5) Description of the applicant's administrative system;

(6) Resumes of key management staff;

(7) Justification of section 303 funded administrative costs as defined in § 97.255, in excess of 20 percent;

(8) Documentation of past experience including, but not limited to, the following:

(i) Reports both programmatic and financial, submitted to agencies to which the applicant is accountable for program performance;

(ii) Names and telephone numbers of responsible officials who can substantiate any narrative assertions of past experiences;

(iii) Evaluations, assessments, reports, letters, etc., compiled by organizations other than the applicant;

(iv) A statement for all documentation giving the relationship between the applicant and other organization(s) involved; and

(9) A description of linkages with other manpower programs, other social service programs, and farmworker organizations, including letters of commitment for all services to be provided section 303 participants at no cost to section 303;

(10) Description of monitoring and self-evaluation system.

(D) *Geographic location served.* Description of the geographic locations within the target area in which the applicant has operated and in which the proposed program will operate, and in which it will recruit and refer participants.

(E) *Detailed Budget.* For each program activity, section 303 grantees will be required to submit an itemized budget of allowable costs, as defined in §§ 97.255 and 97.260. The CETA and the non-CETA share of the total costs shall be noted for each program activity. For all section 303 funds requested, personnel and nonpersonnel costs shall be itemized for each program activity proposed and for the cost category of administration. This itemization shall include individual operational staff salaries, staff fringe benefits, staff travel, equipment purchases, etc.

(i) *Program planning summary.* The Program Planning Summary requires an applicant to provide a quantitative statement of enrollment levels, the number of participants to be served by each program activity (classroom training, on-the-job training, work experience, serv-

ices to participants, and other activities), and outcomes for program participants. It also requires identification of the number of individuals to be served within the target population.

(iii) *Budget information summary.* The Budget Information Summary requires an applicant to provide a quantitative statement of planned expenditures and obligations. It requires an applicant to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); the applicant is to reflect planned quarterly obligations and expenditures by program activity.

(4) *Assurances and certifications.* The Assurances and Certifications form is a signature sheet on which the applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars from the General Services Administration (GSA). Signature of the Assurances and Certifications form by private non-profit section 303 Eligible Applicants and Grantees shall mean that section 303 funds shall be expended in compliance with Federal Management Circulars 74-4 and 74-7; provided that if a Federal Management Circular applicable to the administration of grants to non-profit organizations becomes effective before the grant period, such Circular shall supersede any provisions of FMC 74-4 and 74-7 (made applicable to private non-profit organizations by this subpart) which conflict with the provisions of such Circular. The Assurances and Certifications form is contained in the Forms Preparation Handbook. The following is a summary of the items which are described in detail on that form:

(i) Compliance with the Act and regulations issued under the Act

(ii) Compliance with Federal Management Circulars 74-4 and 74-7 and OMB Circular A-95;

(iii) Legal authority to apply for a section 303 grant;

(iv) Nondiscrimination (section 703 (1));

(v) Compliance with Title VI and VII of the Civil Rights Act of 1964;

(vi) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;

(vii) Compliance with the Hatch Act and restrictions on political activities (as applicable);

(viii) Prohibition on use of position for private gain;

(ix) Access of Comptroller General and Secretary to records and documents pertaining to the Act;

(x) Nonsupport of religious facilities;

(xi) Maintenance of required health and safety standards;

(xii) Position of appropriate worker's compensation to participants;

(xiii) Use of funds under the Act to supplement rather than supplant funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services;

(xiv) Prohibition of use of funds for lobbying activities in violation of 18 USCA 1913.

(xv) Compliance with Department of Treasury Regulations found at 31 CFR 205.

(xvi) Compliance with the provisions in the Clean Air Act and Federal Water Pollution Control Act.

§ 97.214 Submission of Funding Request.

(a) An eligible applicant shall submit three copies of the Funding Request to the address listed below:

U.S. Department of Labor
Employment and Training Administration
Patrick Henry Building—Room 7122
601 D Street NW.
Washington, D.C. 20213
ATTN: Chief, Division of Farmworker Programs

(b) Two copies of the Funding request shall also be submitted directly to the appropriate Regional Administrator for Employment and Training Administration at the same time the three copies are submitted to the above address and labeled: Funding Request for CETA 303 Farmworker Program.

(c) (1) Copies of the Funding Request shall also be submitted to the appropriate State and/or area clearinghouse(s), as well as to those eligible applicant(s) which request an opportunity for review and comment as provided in § 97.211(c) at the same time the Funding Request is submitted to the above address. Eligible applicants shall send a statement to the above address accompanying the Funding Request, indicating that the procedures in this paragraph have been followed.

(2) All comments from clearinghouses and other reviews shall be submitted to the above address by October 8. However, no notification of selection of potential grantee(s) for a State or area will be made until all clearinghouses and other reviews have had at least 30 days from receipt of the Funding Request from that State or area to submit comments.

(d) Funding Requests sent by mail to the address provided in paragraphs (a) and (c) of this section must be registered or certified with return receipt requested. In order to be considered to be submitted on time by the Employment and Training Administration, the following conditions must be met:

(1) The Funding Request must be registered or certified by the Postal Service on or before 3 p.m. September 1. In the event that September 1 falls on a Sunday, on a holiday, or at any other time during which the Postal Service is not operational, it shall be the responsibility of the applicant to properly register and certify the Funding Request so that it will bear a post mark prior to 3:00 p.m. September 1. No deviation in this condition will be made by the Employment and Training Administration, and all Funding Requests received bearing postmarks after 3:00 p.m. September 1, shall be returned without consideration.

(e) Funding Requests delivered by hand must be taken to the address given in paragraph (a) of this section. All applicants who deliver a Funding Request will be given a receipt bearing a time and date of delivery. Funding Requests will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Washington, D.C. time, except Saturdays, Sundays, and holidays. Funding Requests will not be received after 3 p.m., e.d.t., on September 1. In the event that September 1 falls on a Saturday, Sunday or, holiday, it shall be the responsibility of the applicant to deliver the Funding Request so that it will be received prior to 3 p.m., e.d.t., September 1. No deviation in this condition will be made by the Employment and Training Administration and no Funding Request delivered after 3 p.m., e.d.t., September 1 shall be accepted.

§ 97.215 Review of Funding Requests.

(a) *Standards for reviewing Funding Requests for allowable funds.* Funding Requests submitted by applicants shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area according to the procedures outlined in paragraph (a) of this section. In addition, when appropriate under section 306 of the Act, Funding Requests shall be reviewed by the Secretary of the Department of Health, Education, and Welfare (DHEW) or his/her designee in accordance with section 306 of the Act.

(1) *Determination of eligibility.* The Secretary shall review the documentation described in § 97.213(b)(2) to determine the eligibility of each applicant and shall: (i) Designate the organization as eligible under section 303; or (ii) determine that the organization is conditionally eligible pending submission of further documentation; or (iii) determine that the organization is ineligible under section 303. An organization determined to be ineligible shall not be reviewed further.

(2) *Review of Comprehensive Plan for Farmworkers.* The Comprehensive Plans for Farmworkers submitted by applicants shall be reviewed and evaluated by the Secretary to determine those applicants which will be designated potential grantees for a particular target area.

(i) Factors for evaluating Plans. Plans shall be evaluated by the Secretary based on the criteria listed in this paragraph.

(ii) Each of the following factors is assigned a numerical range which shall be used to rank Plans. A separate rating within the identified range for each factor shall be assigned to each Plan based on information provided in the Plan. The sum of the ratings shall constitute the overall rating of the Plan. The following factors shall be considered in assigning ratings:

(A) *Program development.*—Range 0-10. The program development factor is a rating of the proposed program's potential impact on the full range of farmworker needs and its fulfillment of the

intent of section 303. The rating will consider the following elements:

(1) *Training.* The proposed program provides alternatives for farmworkers to leave farmwork by offering training in a number of occupations providing a wage above the poverty level into which participant can be successfully placed within the existing economic and labor market conditions in the target area. The proposed program provides alternatives for farmworkers to secure full time agriculture work providing an income above the poverty level.

(2) *Services.* The proposed program provides supportive services which are necessary to assist farmworkers in leaving seasonal farmwork and/or provides services which will improve the living and working conditions of farmworkers remaining in agriculture.

(3) *Program impact.* The proposed program will directly impact on the problems and needs of farmworkers in the particular target area. The highest rating of 10 shall be awarded to an organization which has adequately analyzed the economic situation of the target area and identified the social and economic needs of the target population, and has developed a program based on this analysis and identification, which provides service including training and supportive services that can be successfully implemented within the existing target area economic and labor market situations to meet these needs.

(B) *Delivery system.—Range 0-10.* The delivery system factor is a rating of the applicant's system for delivering the comprehensive program services and its potential ability to provide effective and timely services to farmworkers. This rating shall include the potential effectiveness of subgrantees and contractors in providing services specifically for farmworkers.

(1) The highest rating of 10 shall be awarded to an organization whose delivery system is efficiently integrated and whose subgrantees' and contractors' delivery systems are coordinated with the applicant's into a functioning unit.

(C) *Administrative capability.—Range 0-10.* The administrative capability factor is a rating of the applicant's management experience and efficiency. The rating shall include consideration of the managerial expertise of the organization's present and proposed staff in managerial and decisionmaking positions. This factor shall also consider administrative efficiency based on comparative administrative cost. The highest rating of 10 shall be awarded to organizations which can demonstrate the capability to administer efficiently a multi-activity delivery system with comparatively low administrative costs.

(D) *Responsiveness to farmworkers.—Range 0-10.* The responsiveness to farmworkers factor is a rating of the organization's active and visible involvement of farmworkers in its planning and the proposed involvement of farmworkers in implementation of its proposed program of services. The rating will also consider the sensitivity of the organization's pres-

ent and proposed staff in program positions. The rating will consider the following elements:

(1) *Involvement of Farmworker Boards/Advisory Councils.* This factor is a rating of the involvement of farmworkers on applicant's governing boards and advisory councils in the planning, implementation and operation of the proposed program. This involvement shall be manifested by the responsibilities incorporated in the board's or advisory council's by-laws and the farmworker representation on these bodies. The highest rating of seven shall be awarded to organizations whose boards or advisory councils have responsibility for reviewing and making recommendations on section 303 plans, monitoring section 303 program operations, recommending corrective action, and having established mechanisms for effecting necessary corrective actions, and whose membership includes farmworkers.

(2) *Staff sensitivity.* The sensitivity factor is a rating of the ability of the organization's staff to relate to farmworkers and be responsive to their needs. The highest rating of 3 shall be awarded to those organizations whose staffing includes ex-farmworkers and reflects the ethnic, racial, and sexual composition of the target population.

(E) *Linkages and coordination.—Range 0-10.* The linkages and coordination factor is a rating of an organization's demonstrated and documented programmatic ties with appropriate State and local agencies, private non-profit organizations, and other groups providing resources and services to farmworkers. The highest rating of 10 shall be awarded to applicants which would operate programs incorporating services at less than, or no cost to section 303 from other agencies for the purpose of providing manpower and other services to participants and whose Funding Request includes letters of commitment for these services.

(F) *Review of experience.—Range 0-50.* The organization's past experience in providing a comprehensive program of manpower and other services shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area. A numerical range of 0-50 shall be used to rank the experience of applicants.

(1) *Existing section 303 grantees.* For existing section 303 grantees competing as eligible applicants, the review of experience will be based on the record of performance in delivering section 303 services. The Secretary shall review and evaluate the grantee's performance through review of reports, monitoring and/or auditing of the program. The highest rating of 50 may be awarded to a grantee which has provided an effective program of services for farmworkers; the factors in this ratio shall include but not be limited to (A) meeting or exceeding all of the individual grant performance standards in its Comprehensive Plan for Farmworkers; (B) meeting

planned performance levels on its Program Planning Summary, and Budget Information Summary for the prior fiscal year (or on its Project Operating Plan); and (C) having met the requirements for program operations and grant administration of this Subpart C.

(2) *Other eligible applicants.* For applicants who are not section 303 grantees, the review of experience will be based on information submitted in the Funding Request. In order to receive a rating for experience, an applicant must have adequately identified the funding source(s) to which it was accountable. The assertions of success should be adequately substantiated and documented in the Funding Request, including official evaluations, if available. The Secretary reserves the right to verify the information submitted in the Funding request and to obtain additional information if the information submitted is not adequate for the purpose of this review. The following factors shall be considered in assigning ratings:

(A) *Program experience, regardless of nature of clientele.—Range 0-40.*

(1) The organization has operated an effective comprehensive program of services, including but not limited to the program activities and supportive services described in paragraphs (c) through (g) of § 97.233.

(2) The organization has provided training and other manpower services effectively.

(3) The organization has met or exceeded the stated objectives for program performance of all program activities it has provided.

(4) The organization has effectively administered a multi-activity delivery system, if applicable.

(5) The administration and management of the program has conformed to acceptable management standards, including but not limited to those set forth in the Grant Administration sections of this Subpart C and Part 98 of this subtitle.

(B) *Farmworker experience.—Range 0-10.* The organization or its subgrantee(s) has provided services specifically for farmworkers. A maximum rating of 10 shall be awarded for farmworker clientele. The highest rating of 50 shall be awarded to an organization which has operated a comprehensive multi-activity program of manpower and other services, whose assertions of effectiveness are supported by individuals from the funding source(s) and/or by an official evaluation, and has served farmworkers. The highest rating of 50 shall also be awarded to prime sponsors whose experience meets the standards presented above and whose subgrantees include farmworker organization(s).

(b) *Selection of potential grantees.* (1) As a result of the procedures set forth in paragraph (a) of this section, of consideration of the potential effectiveness and efficiency of the proposed programs, and of comments received pursuant to § 97.214(c), the Secretary shall designate potential grantees to receive a grant under section 303 for program

operations in a designated target area. The consideration of the potential effectiveness and efficiency of the proposed programs includes but is not limited to the following: (i) cost effectiveness, and (ii) service delivery consideration.

(2) The Secretary may conditionally designate organizations as potential grantees pending resolution of their eligibility status, submission of additional documentation, or changes in the proposed program.

(3) The Secretary also reserves the right to defer designation of any organization which has submitted a Funding Request for a state or area or to invite the submission of new proposals. Such designations will be deferred pending (i) adequate time to consider performance of current CETA section 303 applicants, or (ii) timely and satisfactorily correction of deficiencies by applicants in their current CETA section 303 programs.

(4) The Secretary reserves the right to not select an applicant if there is adequate evidence of substantial mismanagement of government funds.

§ 97.216 Notification of selection.

(a) (1) Potential grantees selected as a result of the procedures set forth in § 97.215 shall be so notified by the Secretary. The notification shall invite each potential grantee to negotiate the final terms and conditions of the grant, shall establish the time and place of the negotiation, and shall indicate the State or area to be covered by the grant. Changes in the proposed program's target area and/or funding level are not appealable under the provision of §§ 97.290-97.292.

(2) Clearinghouses submitting comments on the application will be notified of the selection of the potential grantee within seven working days of selection. Where a clearinghouse has recommended against the selection of the potential grantee, the notification shall include an explanation as to the reasons why its substantive comments were not accepted.

(b) In the event that no Funding Requests are received for a specific State or area or that those received are deemed to be unacceptable, for where a grant agreement is not successfully negotiated, the Secretary reserves the right to invite one or more organizations to submit a proposal for that State or area. In the event of a second invitation, the review criteria for allocable funds need not apply, and funds may be awarded at the discretion of the Secretary.

(c) An applicant whose Funding Request is not selected by the Secretary to receive section 303 grant funds shall be notified in writing and shall be provided the names and addresses of potential grantees for its State.

(d) Applicants who submit Funding Requests which have been rejected may resubmit a new Funding Request the State(s) or area(s) in which they are interested in providing services is announced by the Secretary as open for recompetition.

(e) Any applicant whose Funding Request is considered and rejected by the Secretary for a section 303 grant may request an administrative review as provided in § 97.290 and § 97.292.

§ 97.217 Negotiations of final grant.

(a) Notice of selection as a potential grantee does not constitute approval of the totality of the Funding Request, the funding level sought, nor of the target area requested.

(b) Prior to the actual award of a grant, representatives of the potential grantee and of the Secretary shall enter into negotiations. The subjects of negotiations shall include but shall not be limited to: (1) Program components; (2) subgrantees; (3) funding levels; (4) program objectives; (5) performance levels and standards; and (6) administrative systems.

(c) The Secretary reserves the right to decline to fund any program component(s) or subgrantee(s) or contractor(s) listed in a potential grantee's Funding Request, to add subgrantees, and to modify the target area to be served.

(d) In the event that the negotiations do not result in an acceptable negotiated grant for a section 303 program in a State or area, the Secretary reserves the right to terminate the negotiation and (1) decline to provide funds for section 303 programs in that State or area for that fiscal year or (2) publicly by announcement in the FEDERAL REGISTER invite submission of new proposals for the State or area or (3) negotiate with any organization.

§ 97.218 Grant Award.

(a) At the conclusion of negotiations a grant document which incorporates the results of all negotiations shall be prepared in conformity with FMC 74-7.

(b) The Secretary shall make a grant award by providing the grantee with a grant agreement consisting of the Grant Signature Sheet, the Assurances and Certification form, the Program of Work, the Program Planning Summary, Budget Information Summary, and Grant Conditions.

(1) The Grant Signature Sheet specifies the amount obligated by the Department, delineates the terms of the grant, and contains the signatures of the Secretary and the grantee official.

(2) The Assurance Certification form is described in § 97.213(b)(4).

(3) The Program of Work shall be a summary statement of the Comprehensive Plan for Farmworkers and shall incorporate the amended Comprehensive Plan for Farmworkers by reference.

(4) Grant Conditions are special restrictions placed on the grant by the Secretary.

(c) The grant agreement becomes effective upon signature by the Secretary.

(d) In signing the Grant Signature Sheet, the grantee official indicates the grantee's acceptance of the grant and of all grant conditions incorporated therein. The grant agreement becomes operational upon signature by both the Secretary and the grantee official.

§ 97.219 Annual competition.

(a) At the discretion of the Secretary, a section 303 sponsor which has obtained a grant on the basis of competition may receive a grant for the following program year without competition.

(b) No grant shall be operated in any State or area for a period of more than two years without recompetition.

(c) Target areas open for competition will be announced by the Secretary.

§ 97.220 Modifications.

(a) Major modifications. (1) A major modification to the grant is required under any of the following conditions:

- (i) change in duration of the grant;
- (ii) change in grant allotment;
- (iii) change in the assurances and certifications;
- (iv) substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of participants to be served, planned enrollment levels for program activities, planned placement terminations, or participants to be served is to be increased or decreased by 15 percent or more.

(B) When the cumulative transfer of funds among program activities or cost categories exceeds \$10,000 or 5 percent of the total grant budget whichever is greater; except as provided in § 97.255 (e) (5).

(C) When the program design is altered significantly such as when there is a change from the approved plan in the allowance payment system including but not limited to, the conditions of waiver or when there are changes in program design including but not limited to changes in the design in program activities or changes in target area(s).

(D) When the sponsor adds or terminates any subgrantee, contractor, or program operators.

(v) at the initiation of the Secretary as necessary after consultation with the grantee to assure compliance with the regulations and the approved plan and/or to insure responsiveness to changing economic conditions.

(2) Major grant modifications will not be initiated solely to adjust planned performance to meet actual performance.

(3) Prior approval of the Secretary is required for items covered in (a) (iv) (A), (B), (C), (D) of this section.

(b) Format. Major modifications shall consist of the following:

(1) Revised Program Planning Summary Budget Information Summary for current and future quarters and a narrative explanation of the proposed changes as appropriate to the Secretary with a copy to the appropriate Regional Administrator.

(2) Each request for a modification must contain adequate documentation and analysis to support the request.

(3) Revised signature sheet.

(c) Minor Modifications. A sponsor may make any change in its Program Planning Summary, Budget Information Summary, or narrative description which is not set out in paragraph (a) of this section without prior approval, but must

show any such change in the first Program Status Summary or Financial Status Report as appropriate submitted to be Department after the change has been made. At the same time this report is submitted, an updated Program Planning Summary or Budget Information Summary shall also be submitted to the Secretary with a copy to the appropriate Regional Administrator; only those lines and columns affected by the modification need to be shown.

PROGRAM OPERATIONS

§ 97.230 General.

Sections 97.230-97.237 set forth the program operation requirements for grantees under section 303. The utilization of funds under section 303 is conditioned upon adherence to the Act, terms and conditions of the grant, the regulations under the Act and other applicable law.

§ 97.231 Basic responsibilities of grantees under section 303.

A grantee shall be responsible for: (a) Compliance with plans and assurances, Grant Conditions, and official written communications from the Department;

(b) Compliance with the Grant Administration sections of this Subpart C;

(c) Designing training which is, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient.

(d) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(e) Providing services only to eligible farmworkers as defined in § 97.232 and their dependents;

(f) Providing training only to participants who are legally able to accept employment in the occupation for which training is being provided;

(g) Advising every participant of his or her rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 97.234; and

(h) Making maximum efforts to achieve the goals set forth in the Program of Work.

§ 97.232 Eligibility for participation in section 303 programs.

(a) Eligibility for participation in section 303 programs is limited to farmworkers and their dependents who have, during the 18 months preceding their application for enrollment: (1) Received at least 50 percent of their total earned income as agricultural workers during any consecutive 12 month period (time spent and income earned by individuals while employed in food processing establishments shall be counted as agriculture-related employment for eligibility purposes provided that the person spends at least 50 percent of his/her employment time in farmwork or derives at least 50 percent of his/her income

from farmwork as defined in § 97.203); and

(2) Been employed in agriculture on a seasonal basis; and

(3) Been identified as economically disadvantaged as defined below:

(i) Member of a family which receives cash welfare payments; or

(ii) Member of a family whose annual family income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB). The "nonfarm family" tables shall be used in determining the poverty level for farmworker families.

(b) It shall be the responsibility of the grantee to establish the necessary procedures to ensure that participants meet the above eligibility criteria. Application forms will be completed for all participants, and the forms must contain sufficient information to determine whether or not the applicants meet the prescribed eligibility criteria.

(c) Citizenship shall not be used as a criterion to prevent persons from participating in a program. However, program participants shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(d) Participants in programs authorized under CETA Titles I, II, and VI and under other sections of Title III who met the eligibility criteria for section 303 at the time of their enrollment may also be transferred into or enrolled concurrently in the section 303 programs. Section 303 participants who met eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (§ 95.32(f) of this title).

(e) No section 303 service shall be provided to persons violating the terms of the Farm Labor Contractor Registration Act of 1963 as amended (Pub. L. 88-582, 78 Stat. 920, as amended by Pub. L. 93-518, 88 Stat. 1652).

§ 97.233 Types of program activities available.

(a) A grantee may provide any type of activity consistent with the purpose of section 303 of the Act. Such activities include, but are not limited to the placement of farmworkers and their dependents in jobs above the poverty level, training, education, and other services needed to enable a farmworker to improve his or her well-being and economic self-sufficiency. A program funded under section 303 may include any activity described in paragraph (c) of this section.

(b) A program funded under section 303 may not utilize section 303 funds to implement public service employment programs as described in Part 96 and 99 of this title or to publish a newsletter in violation of the provisions of § 98.23 of this Subtitle.

(c) The basic types of program activities available to a sponsor include, but

are not limited to the following: (1) Classroom training. (i) This program activity is any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, including GED (General Education Development) opportunities to earn the equivalent of a high school diploma for farmworkers who dropped out of school; and the provision of other courses, for example, remedial education. Grantees whose target populations include a significant number of persons of limited English-speaking ability should include provisions for training in the primary language of such persons and/or training in English-as-a-second language or both.

(ii) Occupational training shall be designed for occupations in which skills shortages exist (section 105(a)(6)) and for which there is reasonable expectation of employment (section 703(10)). In making these determinations, a grantee shall utilize available community resources such as the local SESA office, the National Alliance of Businessmen, and similar organizations.

(iii) Allowances. Allowances and other benefits shall be provided in accordance with § 97.256.

(iv) Training agreements. Vocational classroom training may be supported with section 303 funds. In order to obtain such classroom services, grantees may negotiate either financial or nonfinancial agreements on either a class size or individual referrals basis with local educational institutions or boards.

(2) On-the-job training. (i) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bona fide skill and/or qualify for a particular occupation through demonstration and practice. Such training should be conducted on a "hire first, train later" basis, or with reasonable assurance of ultimate placement with an employer other than the training organization. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) Inducements to employers. Grantees may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training, and supportive services which are over and above those normally provided by the employer. Use of a formula which incorporates the trainee's wage as a factor and fixed unit cost contracting are acceptable methods of reimbursement to private-for-profit employers for extraordinary training costs associated with providing on-the-job training. When using a formula, the sponsor can reimburse the employer for extraordinary training costs for training on-the-job, up to a level not to exceed 50 percent of entry

level wages. Sponsors may design other methods of cost reimbursement provided that payments reflect only extraordinary training costs. However, use of designs other than the 50 percent method require prior approval of the Secretary.

(iii) Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (section 101(5)).

(iv) Labor organization consultation. Appropriate labor organizations shall be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(v) Participant benefits. Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 97.257.

(3) *Work experience.* (i) (A) Work experience is a short-term and/or part-time work assignment with a public employer or a private non-profit employing agency and is designed to enhance the employability of individuals who have either never worked or who have not been working in the competitive labor population for an extended period of time, i.e., new or recent entrants into the labor force. The work experience activity is designed to increase the employability of such individuals by providing them with experience on a job, an opportunity to develop occupational skills and good work habits and an opportunity to develop specific occupational goals through exposure to various occupational opportunities.

(B) In addition, work experience may include a short-term work assignment while an appropriate classroom training or on-the-job training opportunity funded under this Act is being developed. Sponsors should limit the participation of individuals placed in work experience while an appropriate activity is being developed to 90 working days.

(C) Participation in work experience for purposes other than that indicated in paragraph (c)(3)(i)(B) of this section shall be for a reasonable length of time determined in accordance with the needs of the participant.

(D) Except as provided above, the participation in work experience of individuals whose only manpower need is for employment, e.g., unemployed individuals who have occupational skills and good work habits, is generally inappropriate.

(ii) Sponsors shall describe in their Comprehensive Plan for Farmworkers the basic design of their work experience activity, including the characteristics of participants who will participate in the work experience activity, the objectives of the activity and the duration and planned outcomes of work experience.

(iii) Work experience activities for youth include part-time employment for students attending school, short-term employment for students during summer, short-term employment for out-of-school youth adjusting to a work setting and in transition from school to employment, short-term employment for those youth who have no definite occu-

pational goal, and short-term or part-time employment for youth for whom no training or job opportunity immediately exists.

(iv) Work experience for adults includes part-time or short-term employment for the chronically unemployed, retired persons, recently discharged military individuals, handicapped individuals, institutional residents and inmates and others who have not been working in the competitive labor population for extended periods of time.

(v) Sponsors shall periodically review the progress of each work experience participant to determine whether continued participation in work experience, transfer to another activity, placement in unsubsidized employment or some other action is most appropriate. The sponsor shall make this determination based on whether the purposes of the work experience activity described in paragraph (c)(3)(i) of this section have been achieved.

(vi) Program outcomes for work experience participants include (A) return to school; (B) enrollment in post-secondary education; (C) enlistment in the military services; (D) enrollment in manpower training and (E) placement in subsidized or unsubsidized employment.

(vii) Work experience in the private for profit sector is prohibited.

(viii) Participant benefits. Each participant in a work experience activity shall receive wages. Wages shall be commensurate with such factors as the type of work performed, the geographic region of the program, and the skill proficiency of the participant.

(A) In no event shall the rate be less than the highest of the following: (1) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, except as provided in paragraph (B) below.

(2) The minimum wage prescribed by State or local law for similar employment;

(3) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary, in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal Statute, other than CETA, under which the assistance was provided.

(B) Wages in the Commonwealth of Puerto Rico shall be consistent with provisions of Federal, State or local law otherwise applicable.

(C) Participants in work experience activities shall be provided workmen's compensation and other fringe benefits as specified in § 97.257.

(ix) Work experience participants may be outstationed at worksites, including Federal agencies and private nonprofit agencies. Outstationed participants are still to be considered employees of the sponsor and shall be assured of the same working conditions and benefits, as specified in § 97.257 as received by other

similarly employed employees of the sponsor (not the outstationed worksite).

(4) *Services to participants.* This program activity is designed to provide those services which are needed: (i) To enable farmworkers and their dependents to obtain or retain employment or to participate in other program activities leading to their eventual placement in unsubsidized nonseasonal agricultural employment; or

(ii) To assist those farmworkers, who remain as seasonal agricultural employees, in improving their well-being.

(iii) Such services may include, but are not limited to, the following:

(A) Services to applicants

(1) Outreach;

(2) Intake: This includes screening for eligibility, the initial assessment process to determine whether the program can benefit the individual and to determine the appropriate manpower activity to which the individual should initially be referred, a determination as to the availability of an appropriate manpower activity; a decision on selection; and dissemination of information on the program;

(B) Manpower Services

(1) Orientation;

(2) Counseling: This includes employment related counseling, testing, and vocational or career exploration;

(3) Referral to non-303 funded training and placement;

(4) Job development

(5) Job placement;

(6) Follow-up.

(C) Supportive Services (Training and non-training related).

(1) Health and medical services;

(2) Child care: Day care program shall meet Federal interagency Day Care Standards and comply with applicable state standards including state licensing requirements.

(3) Transportation;

(4) Emergency assistance;

(5) Relocation assistance;

(6) Residential support;

(7) Nutritional services;

(8) Assistance in securing bonds;

(9) Referral to non-303 funded supportive services

(10) Family counseling;

(11) Family planning services. Provided that such services are made available only on a voluntary basis and are not to be a prerequisite for participants in or receipt of any service of benefit from the program; and

(12) Legal Services.

(D) Post-placement service. Manpower and supportive services as described in paragraphs (4)(iii)(A) and (B) of this section may be provided as appropriate to terminated participants who have been placed in unsubsidized employment. These services shall be provided at the discretion of the grantee and shall enable the terminated participant to retain employment. Such services may be provided during the 30-day period following a participant's termination from the program.

(E) Participant benefits. Allowances as described in § 97.256 may be paid to par-

participants enrolled in manpower services as described in this paragraph (4) (iii) of this section when such services are a component of another activity as described in § 97.233 or when such services are provided on a regularly scheduled basis.

(5) Other activities. (i) These activities are manpower activities which are not described in the categories above or manpower-related activities designed to enhance the economic self-sufficiency of individuals who are eligible to participate in programs funded under section 303. This activity includes, but is not limited to high school equivalency programs and to tuition assistance projects (extended tuition support programs and other opportunities in post-secondary education). No individual may be a participant in a tuition support program for more than two years.

(ii) The approved Comprehensive Plan for Farmworkers must describe the basic design, and provide performance standards and a detailed budget for each of the "Other Activities" to be undertaken.

(iii) Participant benefits. Allowances as described in § 97.256 may be paid to a participant enrolled in "Other Activities" as described in paragraph (5) of this section when such activities are a component of other activity described in § 97.233 or when such activities are regularly scheduled and are described in the approved Comprehensive Plan for Farmworkers.

(6) Combined activities. A participant enrolled in any activity funded under the Act may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity constitutes any activity in which the participant is enrolled for more than 50 percent of the scheduled time.

§ 97.234 Complaint procedure.

(a) Each grantee shall establish a complaint or grievance procedure for resolving any issue arising between it (including any subgrantee or contractor) and a participant or an individual denied participation under section 303.

(b) Such procedure shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved in an informal manner. When the grantee proposes to take an adverse action against a participant, such procedures shall also include a written notice setting forth the grounds for any adverse action proposed to be taken by the grantee and giving the participant an opportunity to respond. Final determinations made after an opportunity to respond shall be so identified and provided to the participant in writing.

(c) Any person subject to the issue resolution requirements of this section may initiate the procedures provided in § 97.291(b) only after all remedies provided under paragraphs (a) and (b) of this section have been exhausted.

§ 97.235 Training for low wage industries; relocation of industries.

No participant may be enrolled in any activity or service under this Act in any low wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor may any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where the business entity conducts operations (sec. 704(a)).

§ 97.236 Cooperative relationships between grantee and other manpower agencies.

(a) Each grantee shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a) (3) (D)), e.g., Job Corps. Grantees shall document linkages with other agencies. Documentation may include, but not be limited to, written memoranda of understanding, written agreements, or contracts and shall be available to the Secretary upon request.

(b) The establishment of such cooperative relationships or linkages shall include, at a minimum, contacting all appropriate Title I Prime Sponsor(s), SESA's, and farmworker programs, if any, in the target area prior to implementing the section 303 program of services and developing working relationships with them.

(c) Grantees shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeship occupations (sec. 105(a) (3) (D)).

(d) Any grantee which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

§ 97.237 Performance standards.

(a) (i) The purpose of this section is to establish comparative standards of performance for projects and activities funded under section 303. The Secretary will develop comparative performance standards, which will set national guidelines to serve as bench marks for the

development and negotiation of individual grant performance standards in the grant agreement. The comparative performance standards will include, but are not limited to, the standards set forth in paragraph (b) of this section. The Secretary shall apply these standards when evaluating the quality and effectiveness of the components of section 303 programs.

(2) The performance standards contained in the individual grant agreement shall constitute the performance standards for that grant. For those projects and activities for which no comparative performance standards are provided in paragraph (b) of this section, the grant agreement shall specify levels of performance. Individual grants may include performance standards, developed by the grantee and approved by the Secretary, which will be in lieu of one or more of the comparative performance standards set forth in paragraph (b) of this section. In addition, the comparative performance standards are not intended to cover fully the requirements of local program operations so that most grant agreements should contain additional performance standards tailored to the specific goals and objectives of that grant. If the grant agreement does not contain performance standards, any comparative performance standard(s) applicable to the program activity or service funded shall apply after such standards are published in the FEDERAL REGISTER.

(3) Grantees shall maintain the documentation necessary for adequate demonstration of actual performance. This documentation shall be made available to the Secretary for the purposes of monitoring, evaluation, and auditing.

(4) It is the responsibility of the grantee to notify the Secretary if the grantee anticipates that performance standards may not be met and to request technical assistance in a timely manner. In order to do so, a grantee shall establish at least quarterly bench mark projections which will enable it to predict the likelihood of meeting its applicable performance standards.

(b) Comparative performance standard for programs funded from allocable funds. (1) Administration. Cost for administration not to exceed 20 percent of the total amount of the grant.

(2) Referral. (i) 100 percent of the goal identified in the grant achieved.

(ii) Followup completed on 85 percent of all those participants referred to other agencies for services.

(3) Training and employment. (i) 100 percent of enrollment, and referral goals identified in the grant achieved.

(ii) 80 percent of placement goals identified in the grant achieved.

(iii) 100 percent of all placements will be employed at a wage at or above the Federal or State minimum wage, whichever is higher.

(iv) 90 percent of all placements will be employed at a wage at or above the

prevailing rate for the particular occupation in the geographic area.

(v) 75 percent of those placed continue to be on the job 90 days after placement in unsubsidized employment.

(4) *Classroom training and on-the-job training.* (i) 100 percent of enrollment goals identified in the grant be achieved.

(ii) 90 percent of enrollees in classroom training and on-the-job training and their families receive services.

(iii) 60 percent of those enrolled in classroom training are placed in unsubsidized employment after training either by their own efforts or through program efforts.

(iv) 75 percent of those placed in on-the-job training continue to be on the job 90 days after the completion of their training period.

(v) At least one-third of classroom training and OJT enrollees are placed in jobs paying at least \$1.00 per hour above the Federal or State minimum wage, whichever is higher.

(5) *Day care.* (i) 90 percent capacity is maintained.

(ii) Cost per child for day care operations serving 0-5 year old children for an extended day of more than 8 hours of operation do not exceed a total cost of \$200 per month. This cost will be based on total cost of operation including funds from sources other than section 303 grants.

(iii) Day care programs shall meet Federal Interagency Day Care Standards and comply with applicable State standards including State licensing requirements.

(6) *Medical services.* Average cost per family not to exceed \$250. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service. The maximum cost for any single family not to exceed \$500.

(7) *Emergency assistance.* Average cost per family not to exceed \$75. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service.

(8) *Relocation assistance.* Average cost per family not to exceed \$600. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of relocation assistance in § 97.203) by the number of families in the relocation component. The maximum cost for any single family not to exceed \$1,000.

(9) *Residential Support.* Average cost per family not to exceed \$500. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of residential support in § 97.203) by the number of families in the residential component. The maximum cost for any single family not to exceed \$700.

GRANT ADMINISTRATION

§ 97.250 Grant Administration in general.

(a) Sections 97.250-97.273 describe Federal requirements relating to the ad-

ministration by grantees of grants under section 303 of the Act.

(b) In general, administration of section 303 grants shall be governed by Part 98, Subpart A, "Grant Administration," of this Subtitle.

(c) Sections 97.251, 97.262, and 97.270 relate to grantees which are non-governmental organizations and set forth requirements applicable only to such organizations. Sections 97.252, 97.260, and 97.263, 97.269 set forth exception and variations from 29 CFR Part 98, Subpart A, which are applicable to all section 303 grantees. Sections 97.261 and 97.269 (b)-97.272 provide additional grant administration requirements applicable to all section 303 grants.

(d) In Part 98, Subpart A of this Subtitle, (1) All reference to the "RA" shall read "the Secretary" when applicable to section 303 programs.

(2) FMC 74-4 and FMC 74-7, designed for public agencies, are hereby made applicable to private nonprofit section 303 grantees. At such time that GSA issues comparable FMC's for private nonprofit organizations, they shall supersede the above Federal Management Circulars.

§ 97.251 Private nonprofit organizations; financial management systems.

For private nonprofit organizations the requirements for financial management systems set forth in § 98.5 of this Subtitle shall apply in their entirety, and in addition the following requirements shall be observed:

(a) *Certification of accounting systems.* Before funds are released to a grantee receiving an initial DOL grant or to a grantee any of whose nongovernmental subgrantees has never administered DOL funds the grantee shall submit a statement to DOL certifying that its accounting system and/or that of the subgrantee(s) meets the standards set in paragraphs (1), (2), and (3) of this section.

(1) Prior to the release of funds of an initial DOL grant, the grantee shall have its accounting system surveyed and evaluated by an auditor. On the basis of the auditor's findings and conclusions, the Secretary shall determine whether the accounting system meets DOL's standard and, if not, whether to suspend the grant.

(2) The accounting system certification shall state that the grantee and/or the subgrantee(s) have established adequate accounting systems with appropriate internal controls to safeguard assets, to check the accuracy and reliability of their accounting data, to promote operating efficiency, and to encourage compliance with prescribed management policies and any additional fiscal responsibilities and accounting requirements established by DOL.

(3) The certification may be furnished by an independent certified public accountant, or an independent state-licensed public accountant.

(b) *Subgrantees.* A grantee shall not release or commit any grant funds to a new subgrantee unless it has received from the proposed subgrantee an accounting system certification appropriately modeled after those required in

paragraphs (a) (1), (2) and (3) of this section. These certifications are to be obtained by the grantee from its subgrantees for retention among the grantee's records and need not be transmitted to DOL unless DOL requests them. DOL may disallow as a charge against the grant any funds released in violation of the requirement stated in this paragraph.

(c) The cost incurred by the grantee or subgrantee in providing certifications of accounting systems is not an allowable cost under section 303 unless such cost is approved as part of the Comprehensive Plan for Farmworkers.

§ 97.252 Audit.

The requirements for audit shall be as described in § 98.6 of this subtitle, except that the following special provisions shall apply:

(a) The term "prime sponsor" in § 98.6 of this Subtitle for the purposes of section 303 shall mean grantee.

(b) The requirement for access to books, documents, papers, and records described in paragraph (a) of § 98.6 of this Subtitle shall apply to all section 303 grantees, subgrantees, contractors and other program operators.

(c) (1) Audits conducted under the provisions of § 98.6(e) of this Subtitle shall be subject to prior approval by the Secretary. (2) The reference to every "two years" in § 98.6(e) (2) for the purposes of section 303 shall read "every year." (3) The cost of "\$100,000" in § 98.6(e) (2) for the purposes of section 303 shall read "\$25,000."

§ 97.253 Reporting requirements.

"Reporting requirements in general," set forth in § 98.7 of this Subtitle shall be superseded as follows:

(a) Each grantee will be required to submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are: (1) The Program Status Summary; (2) The Financial Status Report (These two reports replace the Quarterly Progress Report); (3) The Quarterly Summary of Participant Characteristics; and (4) The Report of Federal Cash Transactions. In addition, grantees may from time to time be required to prepare and submit reports requested by other Federal agencies for the performance of the legislative responsibilities of these agencies.

(b) In order to avoid duplication of payments by unemployment insurance and CETA programs, sponsors shall, upon request, provide SESA's a current list of all CETA participants enrolled in their programs receiving wages.

(c) *Program Status Summary and Financial Status Report:* The Program Status Summary and Financial Status Report requirements set forth in § 98.8 (a) and (b) of the Subtitle shall be applicable.

(d) *Quarterly Summary of Participant Characteristics:* The Quarterly Summary of Participant Characteristics requirements set forth in § 98.9 of this Subtitle shall be applicable.

(e) *Report of Federal Cash Transactions:* The Report of Federal Cash Transactions requirement set forth in § 98.10 of this Subtitle shall be applicable.

(f) In addition, special reports may be required by the Secretary.

(g) The reports required by paragraphs (b) and (c) of this section shall be prepared to coincide with the ending dates of Federal Fiscal Year quarters. These reports shall be sent by the grantee to be received by the Secretary no later than 30 days after the end of the reporting period. If a grantee's grant period ends on a date other than the end of a Federal fiscal quarter, a fifth set of reports covering the entire grant period will be required.

(h) Accountability must be maintained by the grantee for each of the activities authorized under the various Titles of the Act. Therefore, separate reports will be required for the section 303 grants.

(i) The Secretary reserves the right to require the submission of these reports by grantees more frequently than quarterly in cases where there appears to be a major negative deviation from the Program Planning Summary or the Budget Information Summary.

(j) Detailed descriptions of the forms required by paragraphs (c) and (d) are in the Forms Preparation Handbook and supplement.

(k) All required reporting shall be submitted directly to the Secretary at the following address:

U.S. Department of Labor,
Employment and Training Administration,
Patrick Henry Building—Room 7122,
601 D Street, NW, Washington, D.C. 20213.
Attention: Chief, Division of Farmworker Programs.

Copies of the reports required by paragraphs (a), (b), (c), and (d) of this section shall be sent to the appropriate RA at the time of submission to the National Office.

§ 97.254 Reallocation of funds.

The requirements regarding reallocation of funds set forth in § 98.11 of this Subtitle shall be superseded as follows:

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section.

(b) *Reallocation based on nonperformance.* (1) When the Secretary considers through review of the grantee's reports, monitoring, or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, notice shall be given and opportunity shall be allowed for an administrative review as provided in § 97.292.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section:

(i) The grantee's plan for the area shall be revoked in whole or in part;

(ii) No further payments shall be made under this Act to the grantee, to the extent which the Secretary deems necessary; and

(iii) The grantee shall be notified of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by an alternative grantee to service the area which was served by the grantee before the reallocation or the Secretary may serve such an area directly.

(c) *Reallocation based on need.* (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's grant shall be reallocated to another area because the funds are not needed where they were originally allocated.

(2) Before reallocating funds as set forth in paragraph (c)(1) of this section, the Secretary shall determine that:

(i) The grantee's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) The excess funds identified under paragraph (c)(2)(i) of this section cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c) of this section, the following actions shall be taken:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate, the grantee shall be notified of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by grantee.* The grantee shall be invited to submit comments on a proposed reallocation of funds out of its area. These comments shall be submitted to the Secretary within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* The Secretary shall notify the grantee of the final determination after reviewing any comments submitted by the grantee. A final decision to reallocate funds of a grantee shall be published in the FEDERAL REGISTER, and a modification of the grant shall be made.

(4) *Reallocation procedures.* In reallocating such funds to supplement other grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grant with reallocated funds shall not be made without prior consultation with the grantee as to how the funds will be expended. Such a decision shall be published in the FEDERAL REGISTER with an announcement to the grantee(s) receiving additional allocations and the amounts.

(5) *Reallocated funds.* Reallocated funds shall not be considered allocable funds for the purpose of paragraph (c) (3) of § 97.204, the "hold harmless" provision.

§ 97.255 Allowable Federal costs.

The requirements regarding allowable Federal costs set forth in § 98.12 of this Subtitle shall be superseded as follows:

(a) *General.* Except as modified in these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of Subpart 1-15 of Title 41 of the Code of Federal Regulations. 41 CFR 1-12.2 applies to educational institutions, and 41 CFR 1-15.7 applies to state and local governments. Allowable costs include both direct and indirect costs.

(1) *Direct and Indirect Costs.* Direct costs are those which can be identified specifically with a particular cost objective such as an organizational unit, function or object, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities. Indirect costs are those costs of a grantee organization which are not readily identifiable with a particular function or project but nevertheless are necessary to the general operation of the grantee organization and the conduct of the activities it performs. Indirect costs are usually grouped into a common pool and distributed to those activities which benefit from them through the expedient of an indirect cost rate.

(2) *Policies and Procedures.* Cost allocation plans including indirect cost rate proposals shall be developed and approved in accordance with the applicable cost principles and procedures set forth in 41 CFR 1-3.7 and 41 CFR 1-15. Whenever costs jointly serve one or more CETA titles and CETA is the only source of funding, a cost allocation plan must be developed to allocate those costs among the title if these are shared services. These plans are to be used and retained for future audits. Where there are multiple sources of funding, such as other Federal programs or state or local funded programs simultaneously operated by the grantee organization, a cost allocation plan is necessary if there are shared services. This cost allocation plan must equitably allocate costs between the programs (and within the CETA program, among the various titles). All cost allocation plans must be approved in advance by the Secretary.

(b) *Restrictions on use of funds.* No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except if authorized under that law. However, the use of funds granted under one title of the Act as a matching contribution in order to obtain additional funds under another title of the Act is permitted.

(c) *Expenditures for repairs, maintenance and capital improvements and construction.* (1) Section 303 funds may not be expended for new construction (including additions to existing facilities) but may be expended for building

repairs, maintenance, and capital improvements to existing facilities. These costs must be related to a facility or building which is used primarily for programs under the Act (sec. 702(b)).

(2) No funds for new construction (including additions to existing facilities) are allowable except as a part of a training program in a construction occupation. Training costs may include such items as instructors' salaries, training tools and books, allowances or wages to participants (if appropriate) but may not include materials used in construction or land acquisition. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101).

(1) Costs are allocable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(3) All grantees are responsible for assuring that subgrantees and contractors plan, control, and report expenditures against the aforementioned cost categories.

(4) When required by § 98.24 of this Part or State Unemployment Insurance Laws to pay unemployment insurance costs, sponsors shall plan for those obligations to be incurred during the grant year. This responsibility includes unemployment insurance charge which will be incurred by subgrantees and contractors because of unemployment insurance liabilities incurred under programs under the Act.

(e) *Classification of costs by category.* The following principles shall be followed in classifying costs by cost category:

(1) Participants' wages shall be charged to wages.

(2) Participants' fringe benefits shall be charged to fringe benefits (premiums for insurance with comparable coverage to workmen's compensation for participants enrolled in classroom training and services to participants is considered to be a training or service cost as appropriate).

(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants shall be charged to training. Such costs should be those incurred for instruction of participants in either a work environment or classroom. Goods and services which have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training see paragraph (f) (4), Training.

(5) Supportive and manpower services costs which consist of goods and services which directly and immediately affect program participants shall be charged to Services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of service-related costs which may and may not be charged to Services see paragraph (f) (5), Services.

(6) Administration costs shall consist of all indirect and direct costs associated with the management of the grant. Such costs are those which do not directly and immediately benefit participants but are necessary for effective delivery of direct participants benefits. These costs are generally identified with supervision, and management, fiscal and recordkeeping systems. These costs shall also include the administration costs both direct and indirect of subgrantees and contractors. For examples of administration costs see paragraph (f) (6), Administration costs.

(7) When contractors bill the grantee with a single unit charge containing costs which are chargeable to more than one cost category the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. For unit charges such as tuition fees for which the necessary detail cannot be provided, an estimate of the breakdown of the single unit charge among cost categories will be obtained; except when such unit charges are normally billed as a single charge and the cumulative amount of the common charges such as tuition fees or doctors' bills do not exceed \$25,000. These exempted charges do not need to be prorated among the benefitting categories but can be charged to the category receiving the most benefit. Any profit (or loss) should be prorated among all the affected cost categories.

(8) Classification of equipment costs present special problems since many items of equipment can be used for various purposes. In the case of multi-use equipment there must be a proration of cost, or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) *Costs allowable by each cost category.* Following are examples of costs properly chargeable to each of the cost categories.

(1) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in work experience will be allowed. Cost of living increases are considered wages. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(2) *Fringe benefits.* Allowable fringe benefits costs for participants include but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans; unemployment insurance; worker's compensation insurance; and retirement benefits provided such benefits are granted as part of the approved Comprehensive Plan for Farmworkers. Unemployment insurance costs are allowable fringe benefits and shall be charged to the grant as they are incurred. Cost of living increases may not be charged to fringe benefits.

(3) *Allowances.* All allowances paid to program participants pursuant to § 97.256(a) shall be charged to this cost category.

(4) *Training.* Training costs include, but are not limited to the following: salaries, fringe benefits, equipment, and supplies of personnel engaged in providing training, books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utilities costs; and that part of tuition and entrance fees which represent instructional cost having a direct and immediate impact on participants (see § 98.12(e)(7) for exceptions). The following are examples of costs not properly chargeable to training: General and administrative costs of the training facility, supervision, clerical support for non-instructors, and training (skill maintenance and upgrading) of instructors, staff travel except when such travel is an integral part of the instruction, costs of non-classroom space and utilities, transportation of participants to training sites, and cost of processing allowance payments. The compensation of individuals who both instruct participants and supervise other instructors must be prorated among the Training and Administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the cost of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(5) *Services.* (i) Services include, but are not limited to services to applicants, manpower services and supportive services, as set forth in § 97.233(c)(4).

(ii) Services to applicants includes outreach, intake, and assessment.

(iii) Supportive services include child care, health care, medical and dental services, residential support, assistance in securing bonding, transportation, and family planning.

(iv) Manpower services include orientation, counseling, job development and job placement.

(v) Allowable service costs include, but are not limited to, salaries and fringe benefits, space, utility, equipment and travel costs when an integral part of the job of personnel engaged in providing services to participants (e.g., job developers, counselors, and outreach workers); and that part of single unit charges for child care, health care, and other

services which represent only the costs of services directly beneficial to participant (see § 98.12(e)(7) for exceptions). Transportation of participants is properly chargeable to services.

(v) The following are examples of costs not properly chargeable to services: General and administrative costs of the services provided; supervision, clerical support, staff training, travel of supervisory staff, rent and other facilities costs except as provided for in (iv), and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) **Administrative Costs.** (i) Administrative costs shall be limited to those necessary to effectively operate the program. They shall not exceed 20 percent of the total planned costs for the entire grant unless such additional costs have been approved in writing by the Secretary. Consultant services under contract must have the prior approval of the Secretary.

(ii) Supportive costs are comprised of general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, transportation, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(iii) Direct program costs which are not an integral part of training and services provided participants are comprised of goods and services which neither contribute to the management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of supervisory and clerical personnel, program analysts, labor market analysts, and project directors. In addition, all costs of materials, supplies, equipment, space, utilities, and travel which are identifiable with these direct program administration positions shall be charged to administration. Some examples of administrative costs are the salary of a clerical assistant to a supervisor, that part of an instructor's salary representing time spent supervising other instructors, desk-top supplies used by supervisors and in general office administration, rent, depreciation or maintenance of non-classroom space, staff training, consultants services under contract not involving direct training or services to participants, costs incurred in the establishment and maintenance of farmworker boards and advisory councils as provided in § 97.273 and costs of providing technical assistance to contractor and subgrantee staff.

(iv) Services normally chargeable to Administration when performed by staff personnel shall be charged to Wages or Fringe Benefits, as appropriate, when performed by program participants.

These services when performed by program participants, may not be paid by section 303 funds unless this use of

participants' services has been described in the approved Comprehensive Plan for Farmworkers.

(g) **Travel costs.** (1) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of section 303 staff or board members are allowable only if the travel specifically relates to programs under section 303 and is within the CETA section 303 target area or for a Department sponsored or approved conference, meeting, etc. All other travel to be charged to the CETA section 303 grant shall require the prior approval of the Secretary. These costs shall be charged to administration.

(3) Travel costs of other grantee officials of multi-funded programs charged with overall grantee responsibilities (e.g., the Governor of a state or the chief executive of a political subdivision, or their immediate staff that do not have continuing programmatic responsibilities) are allowable if costs specifically relate to programs under the Act. Prior approval by the Secretary is not required. These costs shall be charged to administration.

(4) Travel costs for participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under section 303. These costs shall be charged to administration.

(5) Travel costs, based on mileage, for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(6) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services but shall be restricted to the grantee's jurisdiction or within daily commuting distance, unless part of an approved component in the Comprehensive Plan for Farmworkers.

(7) Travel policies set forth in the Standardized Government Travel Regulations (SGTR) are required of all grantees, subgrantees and contractors. Where a grantee, subgrantee, or contractor, has a more restrictive travel policy than the SGTR, the more restrictive requirements shall be followed.

(8) Other travel requirements may be issued by the Secretary for private non-profit grantees.

(h) **Association Membership.** (1) CETA Section 303 sponsors are permitted to utilize grant funds to join those associations which provide bona fide, relevant technical and administrative services in support of Section 303 program efforts. The activities of such associations must be designed to contribute to the enhancement of professional and technical program knowledge.

(2) For membership dues or other membership-related costs to be allowable, the following conditions shall be observed: (i) The association's activities shall not violate the Anti-lobbying Act,

18 U.S.C. 1913, which prohibits organizations from using Federal funds "directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote, or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation."

(ii) The association shall not violate the principles contained in the assurances set forth in the Section 303 sponsor grant package regarding restrictions against political activities for Federal grantees.

(iii) Those organizations substantially involved in lobbying are inappropriate selections for membership by CETA Section 303 sponsors. (See 41 CFR 1-15.711-19.) However, affiliated associations which are offshoots of such lobbying organizations, and whose only activity is to foster information exchanges and professional growth, may be appropriate selections for membership, if it can be demonstrated that their activities are separate from the parent association, and that the affiliate association does not contribute to the support of the parent organization.

(3) Sponsors wishing to utilize grant funds for membership in associations must obtain the prior approval of the Secretary before initiating membership procedures. Sponsors should submit documents which show that the association meets the conditions set forth in this paragraph 97.255(h), as well as budget information detailing the sponsor's proposed costs related to the proposed membership.

(4) Sponsors who seek to join an association shall submit (or cause the association to submit) to the Secretary a copy of the corporate charters, bylaws, constitution, or any other pertinent official document which explains the purpose of the association and demonstrates that the association will not be involved in activities which would violate the standards set forth in this paragraph 97.255(h). In the case of an association that is affiliated with an organization which conducts lobbying or political activities, the documentation must demonstrate that the activities of the association to be joined are separate from those of the affiliated organization.

(5) When the use of grant funds for membership in an association has been approved by the Secretary for one Section 303 sponsor, the Secretary will announce the approval and it will thereafter be unnecessary for any other 303 sponsor to submit the documentation required by paragraph (4) above.

(6) Sponsor reviews will be conducted by the Secretary to determine that the purposes of such memberships are being carried out, and that program and operations are thereby enhanced.

(7) The cost shall be for Section 303 membership rather than an individual person's membership.

(8) The cost of the membership shall be reasonably related to the value of the services or benefits received. Sponsors are authorized to use up to one-tenth of one percent of their respective Section 303 allocations annually, with a maximum of \$750.00 for association-related costs.

(9) Association-related costs shall be incorporated in the sponsor's Section 303 grant budget, charged to the administration category, and as such, shall be subject to the standard 20 percent overall grant administrative cost ceiling.

§ 97.256 Training allowances.

The requirements for training allowances shall be as described in § 95.34 of this subtitle with the following special provisions:

(a) The term "prime sponsor" in § 95.34 of this subtitle for the purpose of section 303 shall mean grantee.

(b) The requirements for eligibility for allowances described in § 95.34(c) of this subtitle for programs funded under section 303 shall read: "Subject to the provision of § 95.34(j) of this subtitle and § 97.233, allowances shall be paid to participants for time spent in classroom training. In addition, allowances may be paid for time spent in other activities as specified in § 97.233(c) (5) or manpower services such as orientation and counseling. However, allowances for participation in manpower services or other activities shall be provided only if such activities are a component of another activity described in § 97.233, or participation is on a regularly scheduled basis described in the approved Comprehensive Plan for Farmworkers. Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111(a))."

§ 97.257 Wages.

(a) Participants in work experience shall be paid wages as required by § 97.233(c) (3) (viii).

(b) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111(b)). In no event shall the rate be less than the highest of the following:

(1) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exceptions to section 6(a)(1) shall not apply to on-the-job training participants, except as provided in paragraph (c).

(2) The State or local minimum wage for the most nearly comparable covered employment;

(3) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(4) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or, any minimum

rate required by an applicable collective bargaining agreement.

(5) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal statute under which the assistance was provided.

(c) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor.

(d) Wages in the Commonwealth of Puerto Rico shall be consistent with provisions of the Federal, State or local law, otherwise applicable.

§ 97.258 Minimum duration of training; reasonable expectation of employment.

(a) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (sec. 703(8)).

(b) *Reasonable expectation of employment.* An individual shall not be referred to training unless the grantee determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 703(10)).

§ 97.259 General benefits and working conditions for program participants.

(a) Each participant in an on-the-job training or work experience under the Act shall be assured of workmen's compensation benefits at the same level and to the same extent as other employees of the employer who are covered by a state or industry workmen's compensation statute. Participants engaged in any CETA program activity, i.e., work experience, on-the-job training, classroom training, services to participants and other activities where others similarly engaged are not covered by an applicable workmen's compensation statute shall be provided workmen's compensation insurance or coverage under a medical and accident insurance policy for injury or diseases resulting from such participation. The costs of such insurance shall be charged to the appropriate cost category as provided in § 97.255.

(b) Each participant in an on-the-job training or work experience, shall also be assured of health insurance, unemployment insurance, coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208(a)(4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unem-

ployment insurance and similar benefits for participants, such as, work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

(c) Every participant must be advised prior to entering employment of the name of his employer, and of his rights and benefits in connection with his employment (sec. 208(a)(8)).

(d) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed or trained for jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safety practices. The provisions of section 2(a)(3) of Pub. L. 89-286 (relating to health and safety conditions) shall apply to such programs or activity (secs. 208(a)(5) and 703(5)).

(e) The requirements for participants retirement benefits shall be as provided in § 98.25 of this subtitle.

§ 97.260 Allocation of Allowable Costs Among Program Activities.

The requirements regarding allocation of allowable costs among program activities set forth in § 98.13 of this subtitle shall be superseded as follows: The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; work experience; services to participants; and other activities. The cost categories under each of these activities is defined in § 97.255 (e). The extent to which these cost categories are chargeable to specific program activities is set forth below. Administration includes all allowable administrative costs directly associated with the program activity and a pro rata share of the grantee's administrative costs under section 303 not directly associated with any program activity.

(a) *Classroom training.* Cost categories chargeable are: administration, allowances, training, and services.

(b) *On-the-job training.* Cost categories chargeable are: administration, wages (with public or private nonprofit employers only), fringe benefits, training, and services.

(c) *Work Experience.* Cost categories chargeable are: administration, wages, fringe benefits, training, and services.

(d) *Services to participants.* (1) *Manpower services.* Cost categories chargeable are:

(i) Administration.

(ii) Allowances. This includes all allowances paid for short periods of time to participants who are registered for

training, but are waiting for startup of a component and includes additional allowances as described in § 97.233(f).

(iii) *Services.* This includes all manpower services including postplacement services which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(2) *Supportive services.* These services include but are not limited to health and medical services, child care, emergency assistance, relocation assistance, residential support, nutritional services, and other supportive services. Cost categories chargeable are:

(i) *Administration.*

(ii) *Services.* This includes all supportive services, including postplacement services, which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(e) *Other activities.* Cost categories chargeable are: administration, allowances, training and services.

§ 97.261 *Bond coverage of officials.*

(a) Prior to the release of funds to any grantee, public or private, DOL shall receive written assurance that arrangements have been made for appropriate bonding of grantee officials. This assurance may take the form of either a statement that no bond is needed because the conditions of paragraphs (b) have been met, or of a letter from a bonding company or agent stating the type of bond, amount and period of coverage, positions covered, and the annual cost of the bond which has been obtained.

(b) A bond need not be provided by a public grantee if funds are to be deposited in a public treasury and disbursed and audited by local and state public officials who normally perform these duties. In this case, the financial role of the officials of the grantee agency shall be limited to making withdrawals from the Federal Reserve System for deposit in the public treasury and certifying appropriate expenditures for disbursement. A grantee which is a public agency need not provide a new bond if all employees who are authorized to sign or countersign checks on the grantee's commercial bank account or to disburse cash are already bonded in an amount consistent with local requirements and practices.

(c) Private grantees shall take steps to secure blanket fidelity bond coverage in accordance with the following provisions:

(1) Coverage shall be secured in an amount equal to the average of funds to be expended each month, up to the aggregate amount of \$25,000, whichever is less, for all persons authorized to sign or countersign checks or to disburse sizeable amounts of cash, such as for payrolls.

(2) Grantees shall assure that appropriate officials of subgrantees and contractors are bonded. Existing bond coverage on officials of subgrantees which are public agencies shall be considered acceptable. Coverage for officials of sub-

grantees and contractors which are private organizations shall be equal to the average of funds to be expended each month, up to an aggregate amount of \$25,000. If a subgrantee or contractor will expend less than \$1,000 per month in program funds, on the average, bond coverage shall not be required, but may be obtained and is an allowable cost.

§ 97.262 *Basic personnel standards for grantees and subgrantees.*

The basic personnel standards set forth in §§ 98.14, 98.21, 98.22, and 98.23 of this Subtitle shall be applicable to public grantees and to public subgrantees receiving section 303 funds. The following provisions shall be applicable only to private nonprofit grantees and to private nonprofit subgrantees receiving section 303 funds.

(a) *Personnel policies.* Each grantee and subgrantee shall maintain personnel policies and practices in accord with applicable laws and regulations, the provisions of §§ 98.21, 98.22, 98.23 of this Subtitle and the provisions of paragraphs (b) through (h) of this section. Such personnel policies must be in written form and available to the Secretary upon request.

(b) *Discrimination prohibited.* No grantee or subgrantee shall discriminate in its hiring and personnel procedures against any applicant for employment or any employee because of race, creed, color, national origin, sex, or age.

(c) *Opportunities for farmworkers.* Each grantee and subgrantee shall insure that its recruiting procedures afford adequate opportunity for the hiring and advancement of persons in the target population.

(d) *Prohibition against partisan political and sectarian activities.* In addition to the prohibitions described in § 98.23, of this Subtitle grantees and subgrantees shall assure that no program under section 303 involves sectarian activities and that neither section 303 funds nor the personnel employed in the program shall be engaged in the conduct of sectarian activities.

(e) *Nepotism.* The provisions of § 98.22 of this Subtitle shall apply to all grantees and subgrantees with the following special provision:

(1) The term "employed in an administrative capacity" in § 98.22(a) Subtitle for the purposes of section 303 shall mean employed in an administrative capacity or membership on a governing board.

(f) *Prohibition against acceptance of gifts and gratuities.* Employees of grantees and subgrantees shall not accept gifts, money, or gratuities from persons receiving benefits or services under the program, or performing services under contract, or otherwise in a position to benefit from an action of the grantee's employees.

(g) *Outside employment.* Grantees and subgrantees shall include the following provisions in their published personnel policies relating to outside employment of their employees: (1) Such employment shall not interfere with the effi-

cient performance of the employee's duties in the DOL-assisted program;

(2) Such employment shall not involve a conflict of interest or conflict with the employee's duties in the DOL-assisted program;

(3) Such employment shall not involve the performance of duties which the employee should perform as part of employment in the DOL-assisted program; and

(4) Such employment shall not occur during the employee's regular or assigned working hours in the DOL-assisted program, unless the employee during the entire day on which such employment occurs is on annual leave, compensatory leave, or leave without pay.

(h) *Salaries and wages.* (1) Minimum wage; Employees shall be paid at a rate no lower than the applicable minimum wage. Subject to this minimum, the salary for each position supported by DOL funds shall accord with prevailing local practice for comparable positions in local public or private nonprofit agencies.

(2) *Wage comparability:* (i) Persons employed in carrying out programs financed under section 303 shall not receive compensation at a rate which is (A) in excess of the average rate of compensation paid in the area where the program is carried out to persons providing substantially comparable services; (B) less than the applicable Federal or State minimum wage rate, whichever is higher.

(ii) Some grantees or subgrantees are part of long-established private agencies which have merit systems and will apply these systems to section 303-supported employees. In these instances, all positions covered under such merit systems shall be deemed comparable and no extensive organizational reviews, position analyses, or comparability determinations shall be necessary; provided that these employees are filling positions or types of positions in existence before the agency or institution received a section 303 grant and that the salary scale has not been changed as a result of the grant.

(iii) Those grantees for which paragraph (h)(2)(ii) of this section is not applicable, shall establish wage rates for each section 303-supported position based upon a wage comparability study.

(3) *Salary and wage schedule.* Each grantee shall maintain an up-to-date salary and wage schedule. This schedule shall be based upon an up-to-date wage comparability study as described in paragraph (h)(2) of this section. Each position supported by section 303 funds shall: (i) be part of a salary and wage schedule which assigns a specific salary or wage range incorporating periodic increases to each position;

(ii) Be described in a written detailed job description identifying job functions and responsibilities;

(iii) Have specific qualifications required of each person to be hired into the position; and

(iv) Be distinguishable from every other position by reason of its responsi-

bilities, and job functions; Positions requiring higher salaries or wages shall include higher levels of responsibilities commensurate with the salary. All such materials shall be incorporated into personnel policies, procedures, and practice manuals.

(4) *Promotions and salary increases.* Each grantee shall maintain as part of its personnel policies and procedures and practices manual detailed procedures for hiring new employees, promoting present employees and granting salary increases. Documentation shall be maintained for all such personnel actions to substantiate compliance with established procedures for all hires, promotions, and salary increases. Such documentation shall include identification of the procedures used to select new employees or promote present employees, and substantiation of the concerned individual's eligibility for such a personnel action.

(5) *Salaries over \$20,000.* No employee engaged in carrying out program activities receiving financial assistance under section 303 shall be compensated from funds so provided at a rate in excess of \$20,000 per year, without approval from DOL. An employee subject to the provisions of salary proration in paragraph (h) (5) of this section shall not be compensated from funds so provided at a rate in excess of the prorated share of \$20,000, without approval from DOL. Exceptions shall be granted by DOL in cases where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restrictions would greatly impair program effectiveness or otherwise be inconsistent with the purposes to be achieved by the program.

(6) *Prorating salaries.* In cases where an individual performs functions under several grants, their time shall be prorated among the different grants and the portion of the salary charged to the section 303 grant shall not exceed the percentage of time spent performing section 303 functions.

(7) *Employee benefits.* Shall be established in accord with prevailing practice in comparable public or private non-profit agencies.

(1) *Staff complaint procedures.* Each sponsor and subgrantee shall establish as part of their written personnel policies a staff complaint procedure for resolving any issue arising between it and a staff member hired with CETA section 303 funds. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which cannot be resolved in an informal manner. When the sponsor (or subgrantee) proposes to take an adverse action against a staff member, such procedures shall require that a written notice be given to that staff member. The written notice shall set forth the grounds for any adverse actions proposed to be taken by the sponsor (or subgrantee) and give the staff member an opportunity to respond. Final determinations made after an opportunity to respond shall be so identified and provided to the staff member in writing.

§ 97.263 Non-Federal status of participants.

The requirements for this section shall be as described in § 98.28 of this subtitle.

§ 97.264 Grantee contracts and subgrants.

A grantee funded under section 303 may enter into contracts or subgrants under the provisions described in § 98.27 of this subtitle, except that the following special provisions shall apply:

(a) The procurement of contracts shall be in conformance with the standards in § 97.270.

(b) The requirements for cancellation described in § 98.27(e) of this subtitle for programs funded under section 303 shall read as follows:

If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, other applicable law, the grant agreement, grant conditions, or other grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the grantee shall cancel the contract or subgrant. Cancellations of subgrants are major modifications as described in § 97.221 and require approval by the Secretary.

(c) The reference in § 98.27(g) of this subtitle of the provisions of § 98.15 and § 98.16 shall read "the provisions of §§ 97.265, 97.266, and 97.268."

§ 97.265 Adjustments in payments.

The requirements for adjustments in payments shall be as described in § 98.15 of this Subtitle, except that the following special provisions shall apply:

(a) The term "Comprehensive Manpower Plan" for the purposes of section 303 shall mean Comprehensive Plan for Farmworkers.

(b) The Secretary may also make adjustments in payments as described in § 97.267. The adjustments need not be based on a ground set forth in § 98.15(a) of this Subtitle.

§ 97.266 Termination of a grant.

The requirements for termination of a grant shall be as described in § 98.16 of this Subtitle, except that the following special provisions shall apply:

Section 98.16(a) shall be superseded as follows: If a grantee violates or permits a subgrantee or contractor to violate the regulations, grant conditions, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part, unless the grantee causes such violation to be corrected within a period of 30 days after receipt of notice specifying the violation.

§ 97.267 Suspension and debarment.

In situations where there is adequate evidence that there has been substantial mismanagement of program funds under the Act, the Secretary may determine that a grantee be suspended from consideration for CETA section 303 funds. If suspension or debarment is proposed, the procedures set forth in the DOL Procurement Regulations, 41 CFR Subpart 29-1.6 will be followed.

§ 97.268 Grant closeout procedures.

The grant closeout procedures shall be as described in § 98.17, except that the following special provisions shall apply:

(a) Paragraphs (a), (b), and (c) of § 98.17 of this subtitle shall apply in their entirety, and in addition the following special provisions shall apply:

(1) Any contracts or subgrants which extend beyond the termination date or completion of the legal grant period, as permitted by § 98.27(g) of this subtitle shall not exceed six months, unless the grantee has been notified of its selection as a potential grantee for the succeeding fiscal year.

(2) The Secretary may make adjustments in payments of the unexpended funds committed under contracts and subgrants described in paragraph (a) (1) of this section at any time between the completion or termination date of the grant and the termination date or completion of the subgrant or contract.

(b) § 98.17(d) of this subtitle shall be superseded as follows: Upon closeout, the Secretary will insure that:

(1) Prompt payment is made to the grantee for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs, including those described in paragraph (a) (2) of this section.

(3) The letter of credit is cancelled unless the grantee is a potential grantee for the succeeding fiscal year.

(4) Final program and fiscal audits are performed as soon as possible after the completion or termination date of the grant.

§ 97.269 Maintenance and retention of records.

The requirements for the maintenance and retention of records shall be as described in § 98.18 of this subtitle, except that the following special provisions shall apply:

(a) The requirement for maintaining information on the work history of participants shall not apply to participants who are minor children.

(b) The term "State and local prime sponsors" for the purposes of section 303 shall mean grantees.

§ 97.270 Program income and limitations on program expenditures.

(a) *Program income.* Section 98.19 of this title prescribes the requirements relating to program income applicable to public grants and subgrantees. The requirements for private grantees and subgrantees shall be as follows:

(1) Private organizations shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds. Interest income shall be returned to the Secretary within 30 days after the end of each grant quarter.

(2) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds and royalties received from copyrights and patents during the grant period,

shall be handled in accordance with grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(3) Program income earned during the grant period which has been included in the Comprehensive Plan for Farmworkers shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives. Expenditures of program income shall be subject to the provisions of this part. Further, program income shall be expended according to the provisions of the Title of the Act under which the income was generated. All other program income earned by the grantee shall be returned to the Federal Government, except as provided by grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(4) The grantee shall record the receipt and expenditure of revenues as a part of grant project transactions.

(b) *Limitations on program expenditures.* Program expenditures shall not be made prior to the effective date of the grant period as set forth in the grant agreement or as subsequently modified by DOL. Expenditures made before such date shall be disallowed unless approved by the Secretary in advance. If the grantee incurs expenditures in excess of the total amount of the approved program, the amount of the overexpenditure shall be absorbed by the grantee from nonsection 303 funds.

§ 97.271 Procurement standards.

(a) The standards to be used for the procurement of supplies, equipment, and other materials and services by State and local governments with Federal grant funds shall be those described in § 98.20 of this subtitle.

(b) The standards to be used for the procurement of supplies, equipment, and other materials and services by private grantees and subgrantees shall be those described in the Federal Procurement Regulations, the Property Handbook for MA Contractors issued by the Department, and 41 CFR 1-5.2 or 41 CFR 1-15.3. On-the-job training contracts are not subject to sole source approval requirements and the procurement of subgrants is exempt from procurement requirements. When on-the-job training contracts are made, the grantees shall be provided, and such record shall be available to the Secretary upon request. The foregoing standards are prescribed to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

(c) The definitions of subgrant and contract described in § 98.20(a)(1) and (a)(2) of this subtitle shall also be applicable to grantees which are non-governmental organizations.

(d) Sponsors shall obtain prior approval from the Secretary for all purchases of nonexpendable property as defined in the Property Handbook for MA Contractors.

§ 97.272 Labor standards.

All laborers are mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, or projects, buildings, and works which are federally assisted under a grant shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5).

§ 97.273 Allowances and reimbursements for board and advisory council members.

(a) *General.* A reasonable allowance to members who attend meetings of any board, council, or committee, and reimbursement of actual expenses connected with those meetings are allowable costs; but grant funds shall not be used to pay such allowances to any individual who is a Federal, State, or local government employee, or to an employee of a grantee or subgrantee.

(b) *Allowances.* Any person who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council is eligible to be paid an allowance; provided (1) such person's family income falls within OMB Poverty Guidelines and (2) the person is not a Federal employee, an employee of a DOL-assisted organization, or an employee of a State or local public agency. Allowances shall not exceed five dollars per meeting, unless the grantee's chief elected official or governing board determines a higher payment more suitable. Allowances in excess of five dollars shall be approved in advance by DOL. No person shall be paid an allowance by any one DOL-assisted organization for attendance at more than two meetings per month, regardless of whether the meetings are for the same or different policymaking bodies.

(c) *Reimbursements.* (1) Any person, whose family income falls within OMB Poverty Guidelines and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall be eligible for reimbursement of actual expenses, including actual wages lost up to \$18 a day. Receiving an allowance shall not preclude receiving reimbursement for actual expenses incurred in attending that meeting.

(2) Where the community served by the program covers a large geographic area, as in the case of a multi-county or a statewide grantee, reimbursements may also be made to those nonpoor members of a policymaking body who must travel a substantial distance from their home to attend meetings within the community. The grantee's principal representative board shall determine what constitutes a "substantial distance" in its community.

(3) Persons may be reimbursed no more than two meetings per month. A grantee desiring to make reimbursement

to an individual for more than two monthly meetings shall obtain the prior approval of DOL.

(4) The grantee shall define which expenses may be reimbursed, whether incurred as the result of actual attendance at meetings or in the performance of other official duties and responsibilities in connection with the program, and shall establish procedures for the reimbursement of such expenses. The grantee shall obtain the approval of the Secretary for such definitions and procedures prior to reimbursing any individuals under the provisions of paragraphs (c) (1) and (2) of this section.

(d) *Administrative cost.* Allowances and reimbursement as described in paragraphs (a), (b), and (c) of this section shall be charged to the cost category "Administration". Allowances and reimbursement cost for governing Boards and Advisory council should be prorated as administrative costs among all of the grants, from whatever source, administered by the grantee.

ASSESSMENT AND EVALUATION

§ 97.280 Assessment and evaluation.

Assessment and evaluation of section 303 programs shall be conducted in accordance with § 98.30 through § 98.33 of this subtitle. Moreover, the Secretary of Labor shall obtain the approval of the Secretary of Health, Education, and Welfare with respect to direct arrangements by the Secretary of Labor for the provision of basic education and vocational training. This approval shall focus on the legality and quality of such service arrangements as well as the relationships of such services to those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible (section 306 of the Act).

ADMINISTRATIVE REVIEW

§ 97.290 Purpose and policy.

Sections 97.290 through 97.292 set forth the procedures established by the Secretary for: (a) the receipt, investigation, and determination of formal allegations of denial of services by a grantee or subgrantee to participants in a section 303 program or to any individual who may have been eligible for services under section 303; and (b) the review of Petitions for Reconsideration arising out of the procedures for determining potential grantees for allocable funds.

§ 97.291 Procedure for complaints by eligible individuals and program participants.

(a) *Grantee administrative remedies.* An individual denied services who may have been eligible, or an aggrieved participant in a program under section 303, must exhaust the administrative remedies established by the grantee for resolving matters in dispute prior to utilizing the procedures under this section. An individual denied service who may have otherwise been eligible or an aggrieved participant may initiate an action under this review procedure within 30 days of any final decision by a grantee.

The filing of a formal complaint under this section shall not be automatically act as a stay of the decision rendered by the grantee, but such decision may be stayed at the discretion of the Secretary.

(b) *Complaints: Filing of formal allegations; dismissal; form; contents of formal allegations; amendments; investigations.* Procedures for complaints filed pursuant to this section shall be as provided in § 98.42 through § 98.45 of this subtitle except that all formal allegations shall be filed with the Secretary and the term "Comprehensive Manpower Plan" for the purpose of section 303 shall mean Comprehensive Plan for Farmworkers.

§ 97.292 Procedure for complaints arising from the selection of potential grantees.

(a) *Administrative remedies.* Potential grantees shall be determined according to the procedures described in § 97.213

through § 97.215. An applicant which wishes to object formally to its nonselection as a potential grantee, after consideration by the Secretary as provided in § 97.214, may file a Petition for Reconsideration with the National Office within 14 days of the notification of the Department's decision not to award a grant. Reconsideration under this section will not be given to objections by potential sponsors regarding the subjects of negotiation listed in 97.217.

(b) *Petition for Reconsideration.* A petition for Reconsideration shall be a written statement by a responsible official of the complainant requesting a review of the nonselection and may enumerate the factors which the applicant asserts should be reviewed in reconsidering its Funding Request, but such enumeration is not required.

(c) *Reconsideration.* (1) Upon receipt of the Petition for Reconsideration, the

Secretary shall, within 14 days, make one of the following determinations:

(i) That the organization be designated a potential grantee.

(ii) That the Granting Officer's decision be sustained.

(2) The representative of the Secretary responsible for resolution of the Petition for Reconsideration shall be an official of the Employment and Training Administration not directly involved in the original determination. The determination described in paragraph (c) (1) of this section shall be final.

Signed at Washington, D.C., this 4th day of January 1977.

WILLIAM H. KOHLBERG,
Assistant Secretary for
Employment and Training.

[FR Doc. 77-602 Filed 1-6-77; 8:45 am]

federal register

FRIDAY, JANUARY 7, 1977

PART V



DEPARTMENT OF LABOR

**Employment Standards
Administration**



MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

**General Wage Determination Decisions;
Index**

DEPARTMENT OF LABOR

Employment Standards Administration
MINIMUM WAGES FOR FEDERAL AND
FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Illinois:	
IL76-2121	Oct. 1, 1976.
IL76-2145	Dec. 3, 1976.
Louisiana:	
LA76-4187	Nov. 19, 1976.
Michigan:	
MI76-2139; MI76-2140	Do.
Minnesota:	
MN76-2058	May 14, 1976.
Utah:	
UT76-5097	Nov. 5, 1976.

SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Kentucky:	
KY76-1103 (KY77-1002)	Sept. 17, 1976.
Nebraska:	
NE76-4076 (NE77-4001)	Apr. 30, 1976.
Tennessee:	
TN76-1001 (TN77-1001)	Jan. 5, 1976.

Signed at Washington, D.C., this 30th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION #1176-2121 - Mod. #1 (41 FR 43573 - October 1, 1976) Champaign & Vermilion Counties, Illinois					
CHANGE: Power Equipment Operators: Class I Class II Class III Class IV Electricians: Champaign County Vermilion County					
\$11.00	.40	.75			.13
10.95	.40	.75			.13
10.75	.40	.75			.13
7.25	.40	.75			.13
11.10	.40	15+.30			.25
10.87	.40	15+.30			.25
DECISION #1176-2145 - Mod. #1 (41 FR 53251 - December 3, 1976) Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Macon, McHenry, Piatt, Shelby & Vermilion Counties, Illinois					
CHANGE: Power Equipment Operators: Remainder of Counties: Class I Class II Class III Class IV Electricians: Champaign Co; N. & of Douglas Co; Wps. of Blue Ridge, Sangamon & Monticello in DeWitt County					
\$11.00	.40	.75			.13
10.95	.40	.75			.13
10.75	.40	.75			.13
7.25	.40	.75			.13
11.10	.40	15+.30			.25

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION #1A76-4187 - Mod. #2 (41 FR 51288 - November 19, 1976) Statewide Louisiana					
CHANGE: Solicitors Electricians: Zone 7 Cable splicers: Zone 7 Laborers (Highway Construction): Group 4: Zone 4 Zone 5 Line Construction: Zone 7: Linemen: Operators Cable splicers Groundmen					
\$10.00	.50	1.00			.02
9.95	.85	1%			1%
10.45	.85	1%			1%
6.30	.15	.20			.05
4.85	.15	.10			.05
9.95	.85	1%			1%
10.45	.85	1%			1%
7.95	.85	1%			1%

MODIFICATIONS P. 1

DECISION #1A76-4187 - Mod. #2
 (41 FR 51288 - November 19, 1976)
 Statewide Louisiana

CHANGE:
 Boilermakers
 Electricians:
 Zone 7
 Cable splicers:
 Zone 7
 Laborers (Highway Construction):
 Group 4:
 Zone 4
 Zone 5
 Line Construction:
 Zone 7:
 Linemen; Operators
 Cable splicers
 Groundmen

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$10.00	.50	1.00			.02
9.95	.85	11			11
10.45	.85	11			11
6.30	.15	.20			.05
4.85	.15	.10			.05
9.95	.85	11			11
10.45	.85	11			11
7.95	.85	11			11

MODIFICATIONS P. 4

MODIFICATIONS P. 3

DECISION #976-2139 Mod. #3 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
DECISION #976-2139 - Mod. #3 (41 FR 51313 - November 19, 1976) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan						
CRANES:						
Electricians:						
Monroe County	\$12.35	.50	15%-.55			.21
Ironworkers:						
Remainder of Counties:						
Structural & Ornamental	10.43	5%	14%	17%		.09
Reinforcing	9.42	.98+.25	15%	15%		.07
Plasterers:						
South of Hwy. #131 in Monroe	12.20	.65				.01
County						
Plumbers & Steamfitters:						
Monroe County	10.28	.75	.70			.07
Sheet Metal Workers:						
Remainder of Counties	9.73	1.50	.91	1.07		.11
Sprinkler Fitters:						
Remainder of Counties	12.185	.60+.30	.90			.10
Laborers:						
Open Out Construction						
Washtenaw County						
Class 1	7.14	.35	.35	.35		.04
Class 2	7.22	.55	.35	.35		.04
Class 3	7.27	.55	.35	.35		.04
Class 4	7.32	.55	.35	.35		.04
Class 5	7.37	.55	.35	.35		.04
Wayne, Oakland & Macomb Cos.						
Class 1	7.77	.70	.60	.75		.04
Class 2	7.85	.70	.60	.75		.04
Class 3	7.90	.70	.60	.75		.04
Class 4	7.95	.70	.60	.75		.04
Class 5	8.00	.70	.60	.75		.04
Monroe County						
Class 1	7.14	.55	.35	.55		.04
Class 2	7.24	.55	.35	.55		.04
Class 3	7.34	.55	.35	.55		.04
Class 4	7.39	.55	.35	.55		.04
Class 5	7.49	.55	.35	.55		.04

Laborers:

Tunnel, Shaft & Caisson

Construction

Washtenaw & Monroe Counties

Class 1

Class 2

Class 3

Class 4

Class 5

Class 6

Wayne, Oakland & Macomb

Counties

Class 1

Class 2

Class 3

Class 4

Class 5

Class 6

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Class 1	97.73	.55	.35	.55		.04
Class 2	7.81	.55	.35	.55		.04
Class 3	7.86	.55	.35	.55		.04
Class 4	8.01	.55	.35	.55		.04
Class 5	8.21	.55	.35	.55		.04
Class 6	8.46	.55	.35	.55		.04
Class 1	7.77	.70	.60	.75		.04
Class 2	7.85	.70	.60	.75		.04
Class 3	7.90	.70	.60	.75		.04
Class 4	8.05	.70	.60	.75		.04
Class 5	8.25	.70	.60	.75		.04
Class 6	8.50	.70	.60	.75		.04

MODIFICATIONS P. 5

DECISION #M176-2140 - Mod. #2 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation		
\$7.09	.55	.35	.55		.04
7.19	.55	.35	.55		.04
7.29	.55	.35	.55		.04
7.34	.55	.35	.55		.04
7.44	.55	.35	.55		.04
6.16	.55	.35	.55		.04
6.26	.55	.35	.55		.04
6.36	.55	.35	.55		.04
6.41	.55	.35	.55		.04
6.51	.55	.35	.55		.04
5.64	.55	.35	.55		.04
5.74	.55	.35	.55		.04
5.84	.55	.35	.55		.04
5.89	.55	.35	.55		.04
5.99	.55	.35	.55		.04
5.31	.55	.35	.55		.04
5.41	.55	.35	.55		.04
5.51	.55	.35	.55		.04
5.56	.55	.35	.55		.04
5.66	.55	.35	.55		.04
6.27	.55	.35	.55		.04
6.37	.55	.35	.55		.04
6.47	.55	.35	.55		.04
6.52	.55	.35	.55		.04
6.57	.55	.35	.55		.04

Labors:
Open Out Construction
Zone 7

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 8

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 9

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 10

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 11

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 12

Class 1

Class 2

Class 3

Class 4

Class 5

MODIFICATIONS P. 5

DECISION #M176-2140 - Mod. #2
(41 FR 31313 - November 19, 1976)
Statewide, Michigan

CRANGE:

Carpenters - Zone 1

Labors:

Open Out Construction

Zone 1

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 2

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 3 and 5

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 4

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 6

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 7

Class 1

Class 2

Class 3

Class 4

Class 5

Zone 8

Class 1

Class 2

Class 3

Class 4

Class 5

DECISION #M76-2140 - Mod. #2 (Cont'd)

Laborers: Tunnel, Shaft & Caisson	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Zone 1						
Class 1	\$7.77	.70	.60	.75	.04	
Class 2	7.85	.70	.60	.75	.04	
Class 3	7.90	.70	.60	.75	.04	
Class 4	8.05	.70	.60	.75	.04	
Class 5	8.25	.70	.60	.75	.04	
Class 6	8.50	.70	.60	.75	.04	
Zone 2						
Class 1	7.73	.55	.35	.55	.04	
Class 2	7.81	.55	.35	.55	.04	
Class 3	7.86	.55	.35	.55	.04	
Class 4	8.01	.55	.35	.55	.04	
Class 5	8.21	.55	.35	.55	.04	
Class 6	8.46	.55	.35	.55	.04	
Zone 3						
Class 1	7.68	.55	.40	.55	.04	
Class 2	7.76	.55	.40	.55	.04	
Class 3	7.81	.55	.40	.55	.04	
Class 4	7.96	.55	.40	.55	.04	
Class 5	8.16	.55	.40	.55	.04	
Class 6	8.41	.55	.40	.55	.04	

DECISION #M76-2058 - Mod. #2
(41 FR 20131 - May 14, 1976)

Aiken, Aolka, Benton, Blue
Earl, Carlton, Carver,
Chicago, Cook, Crow King,
Dakota, Dodge, Fairbault,
Fillmore, Freeborn, Goodhue,
Hennepin, Houston, Isanti,
Itasca, Jackson, Kanabec,
Koochiching, Lake, LeSueur,
Martin, Meeker, McLeod, Mille
Lacs, Morrison, Nowat, Nicollet,
Robles, Olmsted, Pine, Ramsey,
Rice, Rock, Scott, Sherburne,
Sibley, Stearns, Steele, St.
Louis, Wabasha, Waseca, Wash-
ington, Winona & Wright
Counties, Minnesota

CHANGE:

Under Cement Masons:

Counties of Aitkin, Carlton,
Cook, Lake & Pine Co. (North
of T-42-N; St. Louis County
(South of T-55-N)

Under Linemen:

South of a line west from
the S.W. Corner of T-55-E-
23; Saint Louis County-That
portion south of Ault, Ells-
burg, Laveil, T-55-R-14, T-
55-R-15, T-55-R-18 & T-55-R-
21 Townships, Kanabec County
north of Ann Lake, Knife
Lake & White Townships;
Mille Lacs County north of
Bailey & Mudgett Twp. & Pine
Co.; north of Brook Park,
Croby, Mission Creek &
Munch Townships

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.18	.30				
9.54	.42	.62	.112		.142

MODIFICATIONS P. 10

DECISION #0776-5097 (Cont'd)

Change (Cont'd): Power Equipment Operators:	Fringe Benefits Payments				Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	H & W	Fringe Benefits Payments		
	Basic Hourly Rates	H & W	Positions	Vacation				Positions	Vacation	Education and/or App. Tr.
Group 1	\$7.76	.75	\$1.615	.85	\$8.76	9.04	.75	\$1.615	.85	.14
Group 2	8.04	.75	1.615	.85	9.04	9.39	.75	1.615	.85	.14
Group 3	8.39	.75	1.615	.85	9.39	9.68	.75	1.615	.85	.14
Group 4	8.57	.75	1.615	.85	9.68	9.98	.75	1.615	.85	.14
Group 4-A	8.68	.75	1.615	.85	9.98	10.14	.75	1.615	.85	.14
Group 5	8.68	.75	1.615	.85	10.14	10.29	.75	1.615	.85	.14
Group 6	9.14	.75	1.615	.85	10.29	10.40	.75	1.615	.85	.14
Group 7	9.40	.75	1.615	.85	10.40	10.70	.75	1.615	.85	.14
Group 7-A	9.70	.75	1.615	.85	10.70	10.76	.75	1.615	.85	.14
Group 8	9.76	.75	1.615	.85	10.76	10.82	.75	1.615	.85	.14
Group 8-A	9.82	.75	1.615	.85	10.82	10.98	.75	1.615	.85	.14
Group 9	9.98	.75	1.615	.85	10.98	11.42	.75	1.615	.85	.14
Group 10	10.42	.75	1.615	.85	11.38	12.38	.75	1.615	.85	.14
Group 11	11.38	.75	1.615	.85	12.83	12.83	.75	1.615	.85	.14
Group 11-A	11.83	.75	1.615	.85	12.99		.75	1.615	.85	.14
Group 11-B	11.83	.75	1.615	.85			.75	1.615	.85	.14
Group 12	11.99	.75	1.615	.85			.75	1.615	.85	.14

MODIFICATIONS P. 9

DECISION #0776-5097 - Mod. #
(41 FR 49003 - November 5,
1976)
Statewide Utah

Changes:

Power Equipment Operators:

Steel Erection:

Group 1

Group 2

Group 3

Group 4

Group 4-A

Group 5

Group 6

Group 6-A

Group 7

Filed:

Group 1-A

Group 1-B

Group 1-C

Group 2-A

Group 2-B

Group 3

Group 3-A

Group 4

Group 5

Group 6

SUPERSEDES DECISION

STATE: Kentucky

DECISION NO.: KY77-1002

Supersedes Decision Nos.: KY76-1103 dated September 17, 1976 in 41 FR-40366
 DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTIES: *See below

DATE: Date of Publication

*Counties: Bell, Knott, Laurel,
 McCreary, and Whitley

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Air conditioning & Heating mechanics	5.00				
Bricklayers	6.60				
Carpenters	4.82				
Cement masons	4.65				
Drywall finishers & hangers	4.00				
Electricians	5.00				
Insulation Installer	3.81				
Laborers:					
Eod carriers	3.07				
Laborers	3.00				
Painters	4.50				
Plumbers & fitters	5.00				
Roofers	4.00				
Sheet metal workers	5.00				
Soft floor layers	4.61				
Tile setters	4.50				
Truck drivers	3.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	4.50				
Loader	5.00				

DECISION NO. NETT-4001

STATE: Nebraska
 SUPERSEDES DECISION COUNTRIES: Statewide (except Douglas, Cass, Searcy, Washington and that portion of Saunders County East of Highway #109)
 DATE: Date of Publication
 SUPERSEDES DECISION NO. NETT-4001
 SUPERSEDES DECISION NO. NETT-4076 dated April 30, 1976 in 41 FR 16273
 DESCRIPTION OF WORK: Heavy and Highway Construction (excluding bridges across navigable waterways).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Carpenter	\$5.70				
Carpenter Helper	4.40				
Cement Finisher	5.50				
Concrete Saw Operator	5.00				
Form Setter (road)	5.00				
Form Setter (structures)	4.75				
Laborer	3.80				
Mechanic Builder	4.75				
Painter	4.00				
File Driver Leadman	4.00				
POWER EQUIPMENT OPERATORS:					
All Purpose Spreader	4.50				
Asphalt Distributor	4.40				
Asphalt Distributor Helper	4.15				
Asphalt Restroom	4.15				
Asphalt Paving Machine	5.50				
Asphalt Paving Machine Screedman	4.75				
Stationary Pl. (base or stabilization)	5.00				
Stationary Pl. (asphalt or concrete)	5.70				
Beginner Operator	4.75				
Buildover:					
Less than 115 Drawbar H.P.	5.10				
115 Drawbar H.P. and over	5.70				
Cement Hauler	3.80				
Clamshell, Dragline, Backhoe, Crane, File Driver or Shovel	5.50				
Concrete Mixer	4.00				
Concrete Paver	5.00				
Slip Form Paver	5.70				
Concrete Finishing Machine and Spreader	5.70				
Conveyor	4.00				
Crusher (incl. those with integral screening plant)	5.10				
Bridge Pump Under 10'	4.50				
Bridge Pump 10' and over	5.00				
Fireman (boiler)	4.15				

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Front End Loader:					
3 1/2 Cu. Yds. or Less	\$5.00				
over 3 1/2 Cu. Yds.	5.50				
Mechanic	5.80				
Mechanic Helper	5.00				
Motor Grader	5.80				
Other or Grasser	5.00				
Roller or Compactor,					
Self-Propelled	5.10				
Scraper, Under 15 Cu. Yds.	5.10				
Scraper 15 Cu. Yds. and over	5.70				
Power Grade Machine (trimmer)	5.70				
Traction:					
Form Type	4.50				
Less than 115 Drawbar H.P.	5.10				
115 Drawbar H.P. and over	5.50				
Travelling Plant (stabilization)	5.10				
Travelling Plant Helper					
(stabilization)	4.50				
Trenching Machine	4.75				
TRACK DRIVER:					
Single Axle	4.00				
Tridem Axle	4.50				
Semi-Trailer	4.50				
Transit Mix	4.50				
Loadboy	5.00				
Water Tanker, 6,000 Gal. & over	5.10				
Welder	5.50				

SUPERSEDES DECISION

STATE: Tennessee
 COUNTY: Statewide
 DATE: Date of Publication.
 DECISION NUMBER: TW77-1001
 Supersedes Decision No.: TW76-1001 dated January 5, 1976, in 41 FR-965
 DESCRIPTION OF WORK: Highway Construction

TW77-1001 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Bricklayers	6.85				
Carpenters or leadman	5.70				
Cement masons	5.70				
Electricians	6.60				
Ironworkers, reinforcing	5.45				
Ironworkers, structural	6.10				
Laborers:					
Laborers, unskilled, flagman	3.50				
Chain saw, Concrete rubber					
Mortar mixer, Pipelayer	3.75				
Air tool operator	3.75				
Fireman	3.80				
Concrete edger	3.90				
Concrete saw operator, fence	4.00				
erector, guard rail erector	4.10				
Asphalt raker	4.25				
Sign erector	4.55				
Form setter, Steel road	4.85				
Foodman	4.85				
Mortelman or gunman (gunite)	5.70				
Painters or sand blaster	5.70				
Truck drivers:					
2 & 3 axles	3.90				
4 & 5 axles or more or heavy	4.60				
duty off-the-road trucks.					
Welders - receive rate pre-					
scribed for craft performing					
operation to which welding					
is incidental.					
POWER EQUIPMENT OPERATORS:					
Pump operator, welder helper	3.65				
Ditch paver, mechanic helper	3.80				
Curb machine	3.90				
Motor crane driver, mulcher or					
seeder, scale operator	4.00				
Tractor, farm	4.05				
Concrete mixer, less than 1 yd					
Earth drill	4.10				
Track drill	4.30				
Doser or loader - stock pile					
only	4.40				
Oiler, roller, other than					
finish	4.45				

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (CONT'D)					
Distributor (bituminous)	4.65				
Tractor, crawler, utility	4.70				
Spreader (self-propelled)	4.80				
Asphalt paver, central mixing					
(asphalt or concrete), Com-					
crete finishing machine,					
mechanic, Class II, Motor	5.00				
patrol (rough), Roller (high-					
type), Soil cement machine	5.15				
tractor - boom & hoist, trench-					
ing machine	5.70				
Bulldozer or push dozer,					
scraper					
Backhoe, concrete paver, Cranes					
and loader, Mechanic, Class I,					
Motor patrol finish, pile-	5.70				
driver, Shovel.					

[FR Doc.77-358 Filed 1-6-77;8:45 am]